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Chairman: Mr. Simon (Vice-Chairman) ..... (Hungary)
later: Mr. Bennouna (Chairman) ..... (Morocco)

Contents

Agenda item 140: Status of the Protocols Additional to the Geneva Conventions of 1949 and relating to the protection of victims of armed conflicts

Agenda item 141: Consideration of effective measures to enhance the protection, security and safety of diplomatic and consular missions and representatives

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In the absence of Mr. Bennouna (Morocco), Mr. Simon (Hungary), Vice-Chairman, took the Chair.

The meeting was called to order at 3 p.m.

Agenda item 140: Status of the Protocols Additional to the Geneva Conventions of 1949 and relating to the protection of victims of armed conflicts (A/59/321)

1. **Ms. Noland** (Netherlands), speaking on behalf of the 25 members of the European Union, the candidate countries (Bulgaria, Croatia and Romania), the stabilization and association process countries (Albania, Bosnia and Herzegovina, Serbia and Montenegro and the former Yugoslav Republic of Macedonia), and also Iceland and Liechtenstein, urged countries that had not yet done so to ratify the Geneva Conventions and the Additional Protocols as well as the Statute of the International Criminal Court. She emphasized that no one was beyond the protection of the law, particularly in situations of armed conflict, and said that at the 28th International Conference of the Red Cross and Red Crescent, the European Union had made pledges in addition to those made by its Member States with respect to the commitment to international humanitarian law.

2. At the national level, it was important that States respect the rules of international humanitarian law and penalize violations of those rules. The principle of complementarity stressed that States should ensure that war crimes, genocide and crimes against humanity were penalized under their domestic legal system.

3. Internationally, the Tribunals that had been established to prosecute those responsible for acts of genocide, war crimes and crimes against humanity had been playing an important role in the development of international humanitarian law. They had, for example, helped to determine the parameters of command responsibility as well as which elements of international humanitarian law were part of customary international law. The International Fact-Finding Commission article 90 of Additional Protocol I, whose mandate had not yet been used, would be ideally suited to facilitate respect for international humanitarian law during armed conflict; the Commission had also indicated its willingness to provide its good offices in situations of non-international armed conflict.

4. Lastly, the members of the European Union were working towards ratification of the Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict and its two Protocols, the second of which had entered into force in 2004.

5. **Mr. Lauber** (Switzerland) said that his Government, as the depositary of the Geneva Conventions and the Additional Protocols informed the Committee that 192 States were parties to the Conventions while 162 were parties to Protocol I and 157 to Protocol II and that 68 States had recognized the competence of the International Fact-Finding Commission. Switzerland called on all States that had not yet done so to become parties to the Conventions and the Additional Protocols and to recognize the competence of the Commission, including in respect of non-international armed conflicts. His Government had ratified the second Protocol to the Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict, which had entered into force in March 2004, and encouraged all other States to do likewise.

6. There was still an unacceptable gulf between reality and the obligations arising under international humanitarian law. Nothing could justify failure to respect the provisions of the Geneva Conventions and the Additional Protocols since humanitarian law specifically defined the minimal standard that must be applied to all in the event of armed conflict. No one was above the law and no one should be deprived of its protection. All States parties to the Geneva Conventions and to Additional Protocol I should therefore take the necessary legislative measures to establish the penalties applicable to those responsible for serious violations of those instruments, whom they were obliged to prosecute or to hand over to another party interested in prosecution. The principle of complementarity between the International Criminal Court and national jurisdictions meant that every country should strengthen its national procedures and capacities.

7. The International Court of Justice, in an advisory opinion of 9 July 2004, had emphasized that all States parties should ensure respect for the requirements of the four Geneva Conventions whether or not they were party to a specific conflict. That was also an obligation of States that deployed or supervised private military or security companies in situations of armed conflict. In addition, as the Court had confirmed in the same advisory opinion, the human rights conventions

continued to apply in time of armed conflict. Thus, the International Covenant on Civil and Political Rights was applicable to the acts of a State in the exercise of its jurisdiction outside its own territory.

8. At its tenth emergency special session, the General Assembly had asked all States parties to respect and ensure respect for the fourth Geneva Convention in the occupied Palestinian territory and had invited Switzerland, in its capacity as depositary, to carry out consultations and report to it thereon. Switzerland was currently making initial contacts with the parties most closely involved in the matter.

9. **Mr. Tajima** (Japan) said that in June 2004 his Government had announced that the Japanese Diet had approved the country's accession to the two Protocols Additional to the Geneva Conventions and that the Government had expressed its intention of undertaking the necessary procedures. Since then it had completed all the necessary legislative measures and had deposited its instruments of accession on 31 August 2004. On that occasion Japan had declared that it recognized the competence of the International Fact-Finding Commission.

10. **Mr. Al-Naqbi** (United Arab Emirates) said that despite the numerous instruments, measures and resolutions adopted, innumerable violations of human rights and humanitarian law continued to be committed. There was therefore a need for the creation of multilateral machinery to ensure the implementation of the four Geneva Conventions and the two Additional Protocols and to monitor the violations committed by the warring parties. A transparent and non-discriminatory policy should also be drawn up for the identification and prosecution of those committing war crimes, acts of genocide and other serious violations of international humanitarian law.

11. The United Arab Emirates had taken steps to incorporate international humanitarian law in its national legislation in order to promote respect for the rights of children, women and elderly people. It had also modernized its civil defence systems and carried out information campaigns in schools and the media concerning the rights and duties of citizens. The Government had also contributed, through the Red Cross Society of the United Arab Emirates, to international efforts aimed at alleviating the suffering of people affected by wars and violations of human rights across the world.

12. His Government was deeply alarmed at the serious violations of human rights committed by the Israeli Government against Palestinians and the Arab population of the Syrian Golan. Israel was not complying with the legal obligations imposed by the resolutions of the Security Council and the General Assembly. Moreover, the International Court of Justice, in an advisory opinion on the legality of the construction of a separation wall in the West Bank, had affirmed that the Geneva Conventions and their Additional Protocols applied to the territories occupied by Israel since 1967, including East Jerusalem, the Syrian Golan and the Shab'a farms. It was therefore imperative for the international community, including the United Nations and the influential States in the Security Council, as well as the depositary of the Geneva Conventions and their Protocols, to exert pressure on Israel to compel it to fully implement the relevant instruments in the occupied Palestinian and Arab territories.

13. **Ms. Ramos Rodríguez** (Cuba) said that civilians were increasingly being targeted in armed conflicts, in particular Palestinians living in the occupied territories. For that reason it was of the utmost importance to strengthen the legal regime applicable to armed conflicts by encouraging its universal acceptance. As recent history had been marked by numerous violations of international humanitarian law, the international community and the United Nations should strive to ensure strict adherence to the rules relating to the protection of civilians in armed conflict.

14. Only the abandonment of war for expansionist purposes and the commitment of all States to multilateralism, side by side with the United Nations and in compliance with the United Nations Charter, would make possible the development of humanitarian norms and ensure the protection of civilians in time of war. In addition, still greater efforts were needed to ensure respect for international humanitarian law at the national level and its wider dissemination.

15. The Republic of Cuba, which was a party to the Geneva Conventions of 1949 and the Additional Protocols of 1977, had done everything necessary to ensure respect for the rules set out in those instruments, notably the rules relating to the protection of civilians in situations of armed conflict. Moreover, the International Humanitarian Law Study Centre, which was sponsored by the Cuban Red Cross, had made a significant contribution to the dissemination

and teaching of international humanitarian law in Cuba and in several countries of Central America and the Caribbean.

16. **Mr. Shreim** (Observer for Palestine), stressing the importance of the Additional Protocols and welcoming the increase in the number of States parties thereto, recalled that paragraph 4, article 1, of Protocol I had added to the list of conflicts covered by the Geneva Conventions wars of national liberation, that is, wars waged by peoples in order to free themselves from an occupying power or a racist regime and exercise their right to self-determination.

17. Several General Assembly resolutions reaffirmed the applicability of Protocol I to the occupied Palestinian territory, demanding that Israel respect its obligations as an occupying Power and that Palestinian civilians be protected. The International Committee of the Red Cross (ICRC) had also said, on numerous occasions, that the Fourth Geneva Convention applied to the occupied territories (a view recently confirmed in the advisory opinion of the International Court of Justice (ICJ) regarding the separation barrier). A consensus did, therefore, exist. However, for 37 years Israel had refused to recognize its responsibilities and discharge its duties under international law. Such systematic violations of international law, particularly those covered by article 85 of Additional Protocol I and article 147 of the fourth Geneva Convention, had gone unpunished. The failure to apply humanitarian law had prevented the Palestinian people from exercising their right to self-determination and had brought disastrous consequences. The international community must take strong action before it was too late to halt the practices that placed Israel outside international law.

18. In paragraph 7 of its resolution ES-10/15, the General Assembly called on Israel to respect the Fourth Geneva Convention and invited Switzerland, in its capacity as the depositary of the Geneva Conventions, to conduct consultations and to report to the General Assembly on the matter, including with regard to the possibility of resuming the Conference of High Contracting Parties to the Fourth Geneva Convention. Palestine was grateful to Switzerland for its efforts and looked forward to receiving its report.

19. **Mr. Boonpracong** (Thailand) said that his Government, which was in the process of acceding to Additional Protocol I, was preparing to take the necessary steps to apply all the provisions of the Protocol, especially those relating to the prosecution of war criminals. With respect to article 77 (5) of the Protocol, according to which the death penalty could not be imposed upon persons under 18 years of age having committed an offence related to armed conflict, the Thai Criminal Code had recently been amended in order to give full effect to the article.

20. Thailand agreed with the Secretary-General that "States Parties to international humanitarian law treaties [had] a legally binding commitment to adopt ... national legislation, so as to be in a position to respect and ensure respect for the law in all circumstances" (A/59/321), and looked forward to joining the other States Parties to Protocol I.

21. **Mr. Guan** Jian (China) said that his Government attached great importance to the Geneva Conventions of 1949 and their Additional Protocols and condemned any violation of those instruments. It was to be hoped that more States would comply strictly with their provisions and assist in their dissemination and effective implementation. China had acceded to the two Additional Protocols on 14 March 1983, had honoured its obligations thereunder, and had adopted measures for their study, dissemination and implementation.

22. Chinese law contained penalties for violations of the Geneva Conventions and the Additional Protocols. Members of the armed forces who abused prisoners of war or committed atrocities against innocent civilians were thus liable to punishment. Moreover, on 14 March 1997, the Government had adopted a law which expressly stated that, in its military relations with other States, China must abide by the treaties that it had concluded with them or had acceded to or accepted.

23. Furthermore, efforts had been made within the People's Liberation Army with a view to disseminating and implementing the Geneva Conventions and the Additional Protocols. Since 1991 the armed forces had held training seminars on international humanitarian law in cooperation with ICRC and had sent some of its members to various seminars and training courses on the study and dissemination of international humanitarian law. In June 2004 the armed forces had held a seminar for the Asia and Pacific region which had been attended by representatives of more than 20 countries in the region and of ICRC. Participants had discussed the current status of international

humanitarian law, the challenges it faced, and the progress made in its development.

24. His Government had always valued the important role played by China's Red Cross Committee in the dissemination of the Geneva Conventions and the Additional Protocols. The statute of the Chinese Red Cross Committee, adopted in October 1993, stipulated its rights and obligations and provided legal protection for its efforts to disseminate those legal instruments. In October 2003 and May 2004 the Chinese Red Cross Committee had held training sessions in cooperation with ICRC and planned to set up networks for the dissemination of international humanitarian law in 31 provinces before the end of 2004. His Government would continue to disseminate the principles of international humanitarian law and to contribute to the application of the Geneva Conventions and the Additional Protocols.

25. **Mr. Kupchysyn** (Ukraine) said that his Government, which supported the efforts of the international community to ensure respect for the rules of international humanitarian law during armed conflicts, had become a party to the Protocols Additional to the Geneva Conventions in 1990, and recognized the competence of the International Humanitarian Fact-Finding Commission.

26. Noting that civilians were often directly targeted by contemporary armed conflicts, he recalled that the parties to a conflict were required to respect the provisions of the Geneva Conventions and the Additional Protocols, particularly those relating to the protection of civilians. Grave breaches of those provisions should be regarded as war crimes. It was necessary to ensure universal compliance with the Conventions.

27. The United Nations played a leading role in that regard. He welcomed in particular the significant contribution of the Security Council in considering the protection of civilians, particularly children, in armed conflicts. Urgent measures should be taken to prevent children from being targeted, used, abducted, forcefully recruited or displaced in armed conflicts, or subjected to sexual exploitation or other abuses. The parties to a conflict were obligated to apply the relevant Security Council resolutions.

28. ICRC played an important role in promoting humanitarian law and in assisting Governments to implement the measures required to ensure that it was respected. Ukraine had concluded an agreement with ICRC with a view to setting up a mission in Ukraine, which should help to strengthen their mutual cooperation. Stressing the importance of the International Humanitarian Fact-Finding Commission, he called on all States to make the declaration provided for in article 90 of Protocol I.

29. **Ms. Makarovski** (Sweden), speaking on behalf of the Nordic countries (Denmark, Finland, Iceland, Norway and Sweden), said that the Geneva Conventions of 1949 and the Additional Protocols of 1977 constituted the cornerstone of international law. It was of the utmost importance that they be applied by all Member States and by all individuals engaged in armed conflict. It was also necessary to ensure that international humanitarian law reflected political realities and exigencies. The law must therefore be developed from time to time, and the Nordic countries played an active role in that process.

30. It was estimated that during the 1990s, four million people had died in armed conflicts, many of them civilian casualties of war crimes. Compliance with international humanitarian law needed to be improved in order to save human lives, diminish suffering and increase the possibilities for reconciliation in post-conflict situations.

31. The International Criminal Court would no doubt be of paramount importance in that regard and in the struggle against impunity for war crimes, crimes against humanity and acts of genocide. It was important to strive for as wide adherence as possible to the Rome Statute and for the contracting States to support the Court so that it could go about its work.

32. Moreover, the International Fact-Finding Commission could and should play a role in ensuring compliance with international humanitarian law. The Nordic countries urged States to make the declaration provided for under article 90 of Protocol I to recognize the competence of the Commission to inquire into allegations of grave breaches of international humanitarian law and to enable the Commission to facilitate, through its good offices, the restoration of an attitude of respect for such law.

33. It was vital for the international community to react to breaches of international humanitarian law at an early stage. Preventive action, such as awareness-raising campaigns and education, was needed to uphold respect for such law. The Nordic countries felt that the

work of the international community in that regard must become more effective in order to deter and prevent future breaches of international humanitarian law.

34. Attention should be drawn to the role and importance of ICRC, and the Nordic countries expressed their deep appreciation for the work done by that organization and its efforts to disseminate international humanitarian law, notably through its Advisory Service on International Humanitarian Law.

35. All parties to an armed conflict must respect humanitarian law; the Nordic countries called on all States and entities to respect such law, particularly with regard to the obligations of the belligerents to ensure the protection of civilians.

36. **Ms. Ahn** Eun-ju (Republic of Korea) said that her Government had taken various measures to strengthen international humanitarian law, including with regard to its dissemination and full implementation at the national level. The Government had established the Korean National Committee for International Humanitarian Law in October 2004. The Committee was mandated to make recommendations regarding measures to implement international humanitarian law, ratification of international humanitarian law treaties, and wider dissemination of international humanitarian law. It was also mandated to make recommendations regarding the interpretation and application of the principles of international humanitarian law and cooperation with ICRC and with other countries' national committees.

37. Her Government had ratified a number of international humanitarian law treaties since 2002 and had accepted the competence of the International Fact-Finding Commission in April 2004. In February 2003 it had accepted the amendment to article 1 of the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons which May be Deemed to be Excessively Injurious or to Have Indiscriminate Effects. It had also ratified the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict in September 2004 and it was currently considering accession to the 1954 Convention for the Protection of Cultural Property in the Event of Armed Conflict and its Protocol.

38. Becoming a party to international humanitarian law treaties was only the first step, and each State party must follow up with implementation measures. States parties must also disseminate knowledge of international humanitarian law to the members of the armed forces, the police, students, government officials, the media and the general public. In that connection, the role of ICRC was especially important; the Committee must be commended for its work with other organizations to create the best possible synergies and to raise greater awareness on international humanitarian law issues. ICRC had closely cooperated with several organizations to that end. In particular, it had assisted her Government in its role as host country for the forty-second session of the Asian-African Legal Consultative Organization (AALCO).

39. During that session, a special meeting had been held on international humanitarian law in modern armed conflicts, at the conclusion of which the 47 member countries of the Organization had adopted the Seoul resolution on international humanitarian law. That resolution called upon those Member States that had not yet done so to ratify the 1949 Geneva Conventions and the 1977 Additional Protocols, as well as other international humanitarian law treaties. It also urged all Member States to ensure the applicability of such law by adapting their laws and regulations, establishing national committees on international humanitarian law, complying with the principles of distinction and proportionality, protecting civilian populations, persons *hors de combat*, prisoners of war, civilian objects and cultural property by carefully weighing the choice of methods of warfare in order to avoid unnecessary losses or excessive suffering, and to help ICRC perform its humanitarian mandate to protect and assist the victims of armed conflicts.

40. Accordingly, the delegation of the Republic of Korea urged the Committee to recognize and acknowledge the efforts of AALCO to promote the implementation and dissemination of international humanitarian law. Her delegation would propose an appropriate reference to the adoption of the Seoul resolution by AALCO in the draft resolution on the agenda item.

41. **Mr. Ascencio** (Mexico) said that his country's attachment to international humanitarian law and the protection of civilians and victims of armed conflicts was attested to by its active role, as a non-permanent member of the Security Council, in the adoption of Council resolution 1502 (2003) on protection of United Nations personnel, associated personnel and

humanitarian personnel in conflict zones, and by the measures it had adopted to ensure national and regional dissemination and recognition of international humanitarian law. In that connection, he reminded all States that ratification of or accession to existing international instruments was not enough and must go hand in hand with the effective application and incorporation of their provisions into domestic law.

42. At the national level, the Ministry of Defence had produced military manuals containing the provisions of the four 1949 Geneva Conventions on international humanitarian law and protection of human rights and had organized training sessions in those areas with ICRC support for national army personnel, who had also participated in international training activities. At the regional level Mexico had supported the decisions taken within the framework of the Organization of American States to strengthen international humanitarian law in accordance with the Plan of Action of the third Summit of the Americas. Accordingly, in 2003 and 2004, it had submitted draft resolutions along those lines, containing important provisions on the protection of victims of armed conflict, particularly civilians and prisoners, and on access by humanitarian personnel to those victims as provided for in Security Council resolution 1502 (2003). It had also organized a regional meeting of experts with a view to strengthening observance of international humanitarian law with the assistance of ICRC, with which it collaborated closely in that area, through the ICRC regional office opened in Mexico City in 2002.

43. **Mr. Hafrad** (Algeria) observed that the rules of international humanitarian law were the basis for the protection of victims of warfare and that they were binding. Algeria, a State party to most international humanitarian law instruments, therefore assigned great importance to the protection of human rights in armed conflicts. In that connection, in October 2001, his Government had ratified the Ottawa Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-personnel Mines and on Their Destruction.

44. He also welcomed the reports on the protection of children in armed conflict and on the protection of civilians in armed conflict, although he regretted that the issue of the protection of civilian populations in occupied territories had not been dealt with. He emphasized the important role played by ICRC in promoting the rules of international humanitarian law and helping States to apply those rules at the national level.

45. **The Chairman** said that there were no further speakers on the list. He invited the two States parties to the 1949 Geneva Conventions and their Protocols which had expressed a wish to address the Committee to take the floor.

46. **Mr. Kuzmenkov** (Russian Federation) said that the Russian Federation attached great importance to the 1949 Geneva Conventions and the Additional Protocols of 1977, which were the foundation of international humanitarian law. It had to be recognized that not all Member States were prepared as yet to honour the obligations arising under the Protocols. That was why his delegation supported the Secretary-General's appeal to those States which had not yet done so to consider becoming parties to those instruments.

47. However, many States had become parties to the two Protocols, which showed how important they were considered to be throughout the world. He commended the efforts of ICRC and its national societies to publicize the principles of international humanitarian law, including the 1949 Geneva Conventions and the two related protocols.

48. Gaps still remained, however, particularly in relation to requests for assistance addressed to the International Fact-Finding Commission established pursuant to article 90 of Protocol I. If those States which were not parties to the Rome Statute of the International Criminal Court could have recourse to that Commission, that would strengthen the principles of objectivity, impartiality and equity in the investigation of war crimes.

49. **Mr. Paclisanu** (International Committee of the Red Cross) said that the protection of human life and dignity was a fundamental objective that lay at the very core of international humanitarian law. Wherever that law was not respected, human suffering became all the more severe and the consequences of conflict more difficult to overcome. It was well known that improving respect for humanitarian law required steps to be taken already in peacetime. In that regard, ICRC encouraged States to consider becoming parties to all instruments relevant to the protection of victims of armed conflicts, since universal participation would enhance the authority of those treaties. He also

encouraged States to adopt any legislative, administrative or other measures that might be required to give effect to international norms at the national level. He noted with satisfaction that, as reflected in the Secretary-General's report before the Committee (A/59/321), States were increasing their efforts and their commitment to better implement international humanitarian law in their domestic legal systems.

50. To date, 192 States were parties to the Geneva Conventions, 165 States had acceded to Additional Protocol I and 156 to Additional Protocol II. He was pleased to note that several other States had also indicated their interest in becoming parties and had undertaken the necessary preparatory steps. He reminded States of the possibility of recognizing the competence of the International Fact-Finding Commission in accordance with article 90 of Protocol I and of making use of the good offices of the Commission in situations of international or non-international armed conflict.

51. ICRC welcomed the progress achieved in the setting up of the International Criminal Court, as attested by the ratification of the Rome Statute by 97 States. The aim of the Court was to punish more effectively those who committed the most serious crimes, including war crimes. It was widely recognized that preventing impunity could be achieved through a comprehensive system of national and international jurisdictions that complemented each other. Implementing rules relating to the repression of war crimes at the national level was thus of the utmost importance, since the enforcement of individual responsibility was an essential mechanism in ensuring respect for law.

52. Through its Advisory Service on International Humanitarian Law, ICRC was committed to helping national authorities to adapt their criminal legislation on the repression of war crimes as provided for under the Geneva Conventions and their Additional Protocols, through the adoption of all legislative, regulatory and administrative measures required at the national level.

53. However, adopting or adapting penal legislation was not the only concern. Of prime importance to ICRC was the effective protection of cultural property in the event of armed conflict. Such property should be protected not only in the light of its intrinsic value for humanity and for future generations, but also because attacks against such objects might act as a catalyst for further violence, widespread hostilities and the violation of values that the law sought to preserve. The year 2004 marked the fiftieth anniversary of the adoption of the Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict, and he also welcomed the entry into force of the 1999 Second Protocol to that Convention. To promote the ratification and national implementation of those instruments, ICRC had organized in 2004, in association with the United Nations Educational, Scientific and Cultural Organization (UNESCO), a series of regional seminars on every continent. He took the opportunity to appeal to States which had not yet done so to consider acceding to those important treaties as soon as possible.

54. Many States had already adopted national laws for the protection of individuals in armed conflicts. Nevertheless, the national implementation of international humanitarian law should be a constant concern. Domestic laws and regulations must be adapted to comply with existing treaties and to keep pace with the development of international law as a whole. In that sense, the work of national committees for the implementation of international humanitarian law had proved very useful. Currently, 68 such committees were active worldwide, and ICRC was cooperating closely with them.

55. He welcomed the pledges made by States at the 28th International Conference of the Red Cross and the Red Crescent held at the end of 2003. On that occasion, a large number of States had undertaken to accede to the instruments of humanitarian law and to take measures to implement the law at the national level. He hoped that those pledges would be honoured and emphasized that ICRC was willing to provide any assistance needed in achieving that goal.

56. **Mr. Chaabani** (Tunisia), speaking on behalf of the Group of Arab States, emphasized the universality of the four Geneva Conventions and the two Additional Protocols relating to the protection of victims of armed conflicts, which were an integral part of international humanitarian law. He appealed to all States to respect the rules of that law, particularly Protocol I. Lastly, he reiterated that international humanitarian law did indeed apply to the situation in the occupied Palestinian territory, and called for compliance with the advisory opinion of the International Court of Justice concerning the obligation of all States parties to the

fourth Geneva Convention of 1949 to ensure that Israel abided by the rules of international humanitarian law contained in that Convention.

57. **Mr. Lavalle-Valdés** (Guatemala) proposed, subject to any budgetary implications such a proposal might have, that the statement made by the representative of ICRC should be issued as an official document, since it contained information which was not included in the report of the Secretary-General and which would be very useful for the Sixth Committee in its deliberations.

Statements in exercise of the right of reply

58. **Mr. Lenk** (Israel) said that he wished to protest in the strongest terms the abuse of the platform afforded by the Sixth Committee to point out the obligations of a single party to a single conflict under international law, since respect for that law, which was vital in all situations of armed conflict, was weakened and not strengthened when it served as a political weapon. He was surprised that the obligations imposed under international humanitarian law were not held up against the deliberate terrorist policy of the Palestinian leaders, a policy which violated that same law, since it jeopardized the right to life not only of innocent civilians who were victims of attacks in Israel, but also of Palestinians who were used as human shields by the perpetrators of those attacks. While Israel had a duty to protect its population against terrorist attacks, it was, of course, also required to respect its obligations under international humanitarian law; that task was complicated, however, by the tactics of its enemies, who bore the primary responsibility for the Palestinian losses resulting from their actions. In that conflict, as in all conflicts, responsibility must be shared, and the interests of international humanitarian law were better served when that law was applied equitably to all parties, duly taking into account realities on the ground, rather than invoked inappropriately and with dubious intent.

59. **Mr. Hmoud** (Jordan) said that while the Sixth Committee was a technical body, its debates nonetheless had a political dimension, inasmuch as they dealt with such issues as the application of international humanitarian law in general and the two Additional Protocols in particular, which were related to one of the central goals of the United Nations — the maintenance of international peace and security — and to a related situation, the situation in Palestine. Moreover, there was no doubt that international humanitarian law and the four Geneva Conventions of 1949 applied to the occupied Palestinian territory. Israel's declared intention to respect its obligations as an occupying Power in the territories occupied since 1967 was therefore welcome.

60. Furthermore, the measures taken by a State to protect its population against terrorist attacks, in exercise of a right which Jordan willingly acknowledged as a right of all States, must comply with certain statutory rules and regulations of international humanitarian law; in the case of the West Bank and East Jerusalem, that meant the Hague Convention Respecting the Laws and Customs of War on Land, of 1907, and the Regulations annexed thereto, the four Geneva Conventions of 1949 and Protocol I Additional to those Conventions. Such measures must, in particular, comply with the requirement of "military necessity", meaning, for example, that no collective penalty could be decreed against a population on the ground of acts by individuals.

61. **Mr. Shreim** (Observer for Palestine) said, first, that the Sixth Committee was indeed the forum in which to address questions relating to the legal obligations of States under international humanitarian law, and particularly the question of Israel's obligations as an occupying Power. With regard to terrorism, which would be discussed under another agenda item and in other United Nations forums, attacks against civilian populations and objects, such as places of worship, and indiscriminate attacks against unprotected civilians — practices engaged in extensively by Israel during its 37-year-long occupation, which had been characterized by excessive use of force against Palestinians — were considered terrorist acts under international humanitarian law. No one could deny that Israel had a right and a duty to protect the lives of its people, as the International Court of Justice had pointed out in its recent advisory opinion, but the Court had nonetheless made it clear that in the exercise of that right, Israel must abide strictly by its obligations under international law, which it had failed to do in respect of the Palestinian people.

Agenda item 141: Consideration of effective measures to enhance the protection, security and safety of diplomatic and consular missions and representatives (A/59/125 and Add.1)

62. **Ms. Noland** (Netherlands), speaking on behalf of the European Union, the candidate countries (Bulgaria, Croatia and Romania), the stabilization and association process countries (Albania, Bosnia and Herzegovina, Serbia and Montenegro and the former Yugoslav Republic of Macedonia), and the European Free Trade Association country Iceland, member of the European Economic Area, said that violent incidents involving diplomatic and consular personnel and premises had again increased, as shown by the recent attacks in Jakarta and Baghdad against the embassies of Australia, Greece, the Netherlands and Jordan; she strongly condemned such acts, which were contrary to the principle of inviolability of such missions and representatives, a principle that contributed to establishing trust between States and concord among peoples, and reiterated that such acts could never be justified and that their perpetrators must be brought to justice. The European Union, convinced of the need to increase protection and security in that area, urged States to strictly observe and implement the provisions of international law governing diplomatic and consular relations and to ensure the protection of diplomatic and consular missions and representatives, which should be free of all pressure on property and persons alike. Host States had a special responsibility in that regard, of which the General Assembly had repeatedly reminded them, and which should be reaffirmed in a new resolution based on Assembly resolution 57/15.

63. The delegations on whose behalf she spoke regretted that so few States had complied with the reporting procedures provided for in the aforesaid resolution and encouraged the submission of such reports in the future. The European Union welcomed the growth in the number of States parties to the conventions on protection, security and safety of diplomatic and consular missions and representatives; the norms contained in those instruments deserved universal acceptance, and the Union again called upon all States that had not yet done so to become parties to those instruments.

64. **Mr. Eriksen** (Norway), speaking on behalf of the Nordic countries, said that those countries had been the first to place the item in question on the General Assembly's agenda 24 years earlier. The protection of foreign emissaries had been one of the first areas of international relations to be covered by rules in all legal systems; international cooperation depended on such protection, which must not be violated. Pursuant to universally accepted norms of international law, such as the Vienna Conventions on Diplomatic and Consular Relations, receiving States had the primary obligation to protect diplomatic and consular representatives and missions. That was a basic prerequisite for the normal conduct of relations among States and for the fulfilment of the purposes and principles of the Charter of the United Nations. The principles in question protected the channels of communication between States, which were essential to the maintenance of international peace and security. The duty of representatives to respect the laws and regulations of receiving States must be strictly observed, as they enjoyed protection not as individuals, but rather as officials.

65. The Nordic countries strongly condemned acts of violence against diplomatic and consular representatives, as well as against representatives of intergovernmental organizations; such acts could never be justified. The States on whose behalf he spoke, particularly concerned at the resurgence of such acts, which seriously impeded the work of the Organization and had claimed many victims in recent years, emphasized the need for close cooperation between sending and receiving States in order to prevent violations of the security and safety of diplomatic and consular missions and representatives.

66. **Ms. Ramos Rodríguez** (Cuba) categorically condemned attacks on the security of diplomatic and consular missions and representatives and said that the perpetrators must be punished. States must take the necessary steps at the national level to fulfil their international obligations in that regard and ban in their territories the activities of individuals, groups or organizations which incited, aided or took part in such acts. Cuba had done so, and had also provided the missions present in its territory with the security services needed to protect the offices and residences of their representatives.

67. Cuban legislation outlawed acts, attacks or attempts against the honour and dignity of the diplomatic representatives of foreign States and imposed severe custodial sentences on those responsible for such acts. In view of the importance of strict compliance with existing international

instruments for the protection and safety of diplomatic and consular missions and representatives, Cuba welcomed the fact that another 32 countries had signed them, as recent events showed that they were still important.

68. **Mr. Playle** (Australia) said that his country's concern for protecting the security of diplomatic missions and representatives had been made all the greater by the bombing of the Australian embassy in Jakarta, Indonesia, on 9 September 2004. Australia wished to record again its appreciation for the ongoing cooperation of the Indonesian Government. Although there had been no victims among the embassy staff, his Government regretted that Indonesian nationals, including police and security officers guarding the embassy, had been killed. His Government was pleased to be in a position to help by providing financial aid for the families of those killed and injured and by providing support to strengthen the capacity of the Indonesian emergency services. The bombing demonstrated again that diplomatic missions continued to be a prime target for terrorist groups. Australia called upon all States to work together in ensuring the safety and security of their diplomatic and consular missions and representatives, and to ensure that all perpetrators of terrorist acts were brought to justice in accordance with international law.

69. **Mr. Kone** (Burkina Faso) said that the report of the Secretary-General (A/59/125) had revealed that some Members of the Organization had failed in their significant obligation to guarantee the security of diplomats duly accredited and freely accepted in their territory. Pages 3 and 4 of the report stated that a number of Burkina Faso's diplomats and missions abroad had been victims of that failure to comply with international law.

70. The principle of protecting diplomatic and consular missions and representatives was at the heart of international law and diplomatic practice, as such missions and representatives embodied and perpetuated friendly relations between States. In the receiving State, representatives must have the security they needed to fulfil their functions, which contributed to maintaining and strengthening peace, security and peaceful coexistence. The receiving State must therefore take all appropriate action to inflict exemplary punishment on those guilty of violent attacks against foreign missions and their staff. The receiving country's obligation to provide protection was binding under international law and must be adhered to strictly, completely and non-selectively.

71. Recognizing its responsibilities to the international community, Burkina Faso had regularly provided all the necessary information regarding steps taken to ensure the security of all diplomatic and consular missions on its soil. Those reports certified that no missions or representatives had suffered threats or any other direct form of hostility in the country's territory. The competent authorities would continue to take the necessary action to ensure that missions and their representatives remained secure and undisturbed.

72. **Mr. Sinaga** (Indonesia) acknowledged the expressions of sympathy and condolences following the recent terrorist attack in Jakarta, which had taken place near the Australian embassy and had also damaged the embassy of Greece. That cruel act on the morning of 9 September 2004 had led to the deaths of 9 innocent Indonesian citizens and wounded 102 others. If the terrorists had aimed at undermining Indonesia's determination, the attack had failed, as his Government remained firm in its commitment. The terrorists might also have hoped to sow the seeds of division and discord between the Governments and people of Indonesia and Australia, but both nations had established solid relations over the years that could not be affected by a terrorist attack.

73. With regard to the protection, security and safety of diplomatic and consular missions and representatives, Indonesia had already ratified four out of the seven conventions listed in the report of the Secretary-General (A/59/125). With reference to the compulsory settlement of disputes, his Government was of the view that States should have the choice of exploring settlement first through negotiations rather than by automatic reference to judicial mechanisms.

74. Indonesian police and intelligence officials had established working relations with foreign embassies in order to give greater protection to the diplomatic community in the country. His Government would continue to make the protection of diplomatic missions a matter of high priority.

75. **Mr. Diallo** (Mali) said that the question of violations of international law concerning the security of diplomatic and consular staff and the inviolability of diplomatic and consular premises had been on the Sixth Committee's agenda for 24 years. The report of the Secretary-General (A/59/125) indicated that

unacceptable acts of violence were continuing to target diplomatic and consular missions and representatives. The Malian delegation emphatically condemned such acts, which threatened the stability of international relations. Adherence to the principles and norms of international law was an essential prerequisite for the proper conduct of relations between States, for assuming international commitments meant taking appropriate action to implement those commitments.

76. His delegation reaffirmed its adherence to the principles of international law on diplomatic and consular relations, and believed that the 1961 Vienna Convention on Diplomatic Relations, the 1963 Vienna Convention on Consular Relations and the 1973 Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, must be complied with in order for diplomatic and consular staff to be able to perform their duties unhindered.

77. The privileges and immunities enjoyed by diplomatic and consular staff and premises were a vital guarantee against violent acts and embodied the obligation of the receiving State to take all appropriate measures to provide security for diplomatic and consular missions and representatives. The obligation to safeguard diplomats' physical security was a legal obligation, and any shortcoming threatened to weaken the relationship of trust between nations. The receiving State must therefore strictly apply and enforce the provisions of international law, and its obligation to protect diplomats and their property must be translated into action.

78. The perpetrators of violent acts against diplomats and their property must be found and brought to justice. That was the thinking behind Mali's report of 25 July 2003. True to its ancient tradition of hospitality, Mali had always taken the appropriate action to guarantee the security of diplomatic and consular missions and representatives in its territory. It believed that the proposal in its report to make available security guards to be posted at foreign missions and residences would strengthen the protection and security of diplomatic and consular missions and representatives.

The meeting rose at 5.25 p.m.

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Chairman: Mr. Dhakal (Vice-Chairman) ..... (Nepal)

Contents

Agenda item 146: International Criminal Court

Agenda item 147: Report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization (*continued*)

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04-55316 (E)

In the absence of Mr. Bennouna (Morocco), Mr. Dhakal (Nepal), Vice-Chairman, took the Chair.

The meeting was called to order at 10.10 a.m.

Agenda item 146: International Criminal Court (A/59/356)

1. **Mr. Barriga** (Liechtenstein) outlined his Government's contribution to the progress of the International Criminal Court, and said that attention should henceforth focus on ways of providing increased support for the Court and ensuring that it had the resources, capacity and information necessary to end impunity for war crimes, crimes against humanity and genocide, when national authorities were unable or unwilling to do so. A robust budget and a fruitful working relationship with the United Nations were needed to that end. It was also vital that Member States should adopt implementing legislation, pay their assessed contributions fully and on time and ratify the Agreement on Privileges and Immunities. Furthermore, accession and ratification must once again gather pace if the ultimate goal of the universal application of the Rome Statute were to be attained.

2. The international community should always defend the Rome Statute when it was challenged, explain its principles if they were not fully understood and enlist all States, irrespective of whether they were Parties to the Statute, in the fight against impunity. With that in mind, it was to be hoped that the Assembly of States Parties would be held periodically in New York, as well as in The Hague, and that the Court would have a liaison office in New York. In the immediate future, practical support from the United Nations Secretariat, specialized agencies and programmes would be instrumental in enabling the Office of the Prosecutor to press ahead with its work. The International Criminal Court offered a rare opportunity to foster peace and security by combating impunity.

3. **Mr. Lauber** (Switzerland) said that the establishment of the International Criminal Court was a crucial stage in the international community's long struggle to promote justice and the rule of law, and the fact that the Court was fully operational was therefore a positive development. The campaign to achieve the universality of the Rome Statute must continue and close cooperation between the Court and the United Nations must be instituted. In that connection, it would be useful for representatives of the Court to attend any United Nations meetings or conferences which dealt with questions of interest to the Court. Whenever necessary, the Security Council must exercise the powers it was granted by the Rome Statute to bring to the attention of the Court situations where serious crimes had been committed, even if they had occurred in the territory of a non-Party State.

4. The Court would serve international peace and security by preventing the worst violations of human rights and international humanitarian law, by restoring the rule of law and by promoting reconciliation after conflicts. Yet the Rome Statute embodied the principle of complementarity, which meant that prime responsibility for prosecuting those responsible for genocide and crimes against humanity fell to national courts, with the Court intervening only when those courts were unwilling or unable to act. While every State must shoulder that responsibility, moves by the international community to strengthen local capacity would not come amiss. His Government would therefore continue to assist the fight against impunity by supporting the Court so as to ensure that it had the means to carry out its all-important mandate.

5. **Mr. Playle** (Australia) welcomed the considerable progress made by the International Criminal Court and commended the decision of the third session of the Assembly of States Parties to set up a contingency fund to cover unforeseen events or expenditure faced by the Court and the emphasis on robust and effective budgetary management. He also welcomed the focus on the critical role which justice and the rule of law played in effective peace-building. The year ahead would be decisive for the Court as it opened investigations into situations in two countries. Those inquiries should proceed expeditiously so that the Court could discharge the responsibilities entrusted to it by the States Parties and crimes which shocked the conscience of mankind could be investigated and their perpetrators brought to trial.

6. **Mr. van den Berg** (Netherlands), speaking on behalf of the European Union, the candidate countries Bulgaria, Croatia, Romania and Turkey, the stabilization and association process countries and potential candidate countries Bosnia and Herzegovina, the former Yugoslav Republic of Macedonia and Serbia and Montenegro and the EFTA countries Iceland and Liechtenstein, members of the European Economic Area, said that the International Criminal Court was the

most significant recent development in the long struggle to advance the cause of justice and the rule of law and that its existence was an invaluable safeguard against impunity and therefore a contribution to peace and security. Since the Court could assume jurisdiction only as a last resort when a State was unable or unwilling to do so, the Security Council's power to refer situations to the Court, even when countries were not States Parties to the Rome Statute, was most important. The announcement by the Prosecutor that the first criminal investigations were about to be opened indicated that the Court was fully operational and starting to combat impunity.

7. The European Union trusted that cooperation between the United Nations and the Court would be fruitful and set great store by the prospect of closer dialogue between the Court and the Assembly of States Parties. It also believed that it was important for the Court to remain in close contact with the international community in New York; hence it was pleased to note that the next elections for the judges would be held in that city.

8. The Court's support of victims' rights was a key element of the Rome Statute and its groundbreaking provisions on victims' compensation would foster national reconciliation among traumatized victims of the most severe crimes. The European Union therefore hoped that more States would pledge money to the Victims Trust Fund. It was also firmly committed to redoubling its endeavours to encourage ratification of the Rome Statute so that the Court would ultimately have universal jurisdiction. To that end, the European Union was ready to help States which might require assistance in that respect. It had relentlessly defended the integrity of the Rome Statute and would continue to do so.

9. **Mr. Makayat Safouesse** (Republic of the Congo) said that, in signing and ratifying the Rome Statute, his Government had been convinced that the establishment of the International Criminal Court constituted a turning point in the strengthening of international justice and the battle against impunity. Subscribing to the objectives of the Court would constitute a powerful defence against the recurrent threat of heinous crimes against peace and international security and of violence that might engulf the whole world.

10. The contents of the note by the Secretariat on the International Criminal Court (A/59/356) signified that the Court was operational, and the Relationship Agreement would enable the Court to take its place in the United Nations system. His Government would continue its efforts to harmonize his country's legislation with the provisions of the Rome Statute, but it looked forward to receiving technical assistance from the international community so that it could implement the Statute. It was on the point of signing the Agreement on Privileges and Immunities and was determined to join with other States in working to achieve the Court's aims.

11. **Mr. Suarte** (Brazil), speaking on behalf of the Rio Group, hailed the headway made by the International Criminal Court. The decisions of the Democratic Republic of the Congo and Uganda to refer situations to the Court were commendable and indicated that States had confidence in the independence and impartiality of the Court, which was the international community's key instrument for countering impunity. Recent contributions to the Victims Trust Fund should also be applauded. The Rio Group undertook to promote the integrity of the Rome Statute and to help the Court to fulfil its mandate effectively, because the Court's existence buttressed the legal foundations of the international community and the rule of law throughout the world. It also complemented the efforts of national courts to combat crimes which were an affront to humanity. For that reason, the Rio Group attached great importance to the deliberations of the Special Working Group on the Crime of Aggression.

12. Speaking as the representative of Brazil, he said that the recent open debate on justice and the rule of law had shown that the international community was firmly committed to strengthening international law and countering impunity. His delegation looked forward to contributing to that effort which would help enhance the legal effectiveness and legitimacy of the international community's response to the changing nature of conflicts throughout the world. In that context the Court could play an increasingly important role within a wider international institutional system. The universality and integrity of the Rome Statute had to be constantly borne in mind by all those who were helping to set up the Court. The Court's claim to universality was deeply rooted in the elaborate checks and balances built into the Statute. That regime provided the requisite safeguards against possible abuses and politically motivated misuse of the Court's

jurisdiction. His Government was committed to upholding the integrity of the Rome Statute as a whole and the consolidation of the rule of law all over the world.

13. **Mr. Mukongo Ngay** (Democratic Republic of the Congo) said that the massive violations of human rights and humanitarian international law that had occurred during five years of occupation of the eastern portion of the Democratic Republic of the Congo and the persisting aftermath of disorder and insecurity demonstrated that the re-establishment of the rule of law was one of the most significant challenges that his country faced in order to be able to halt the cycle of violence, put an end to impunity, address the underlying causes of the conflict and create a truly democratic society. True reconciliation in the Great Lakes region of Africa required that the crimes committed should be brought to light, responsibility should be assigned and the victims should be compensated.

14. The Democratic Republic of the Congo had therefore welcomed the decision of the Prosecutor of the International Criminal Court to open an investigation, the Court's first, into the serious crimes committed in Ituri since the Rome Statute had come into force. His Government had formally referred the situation in the entire national territory since 1 July 2002 to the Prosecutor to determine whether one or more specific persons should be charged with the commission of crimes within the jurisdiction of the Court. The Prosecutor had found that there was a reasonable basis to proceed with the investigation of some 5,000 to 8,000 murders and other crimes. To facilitate the Prosecutor's task, on 6 October 2004 his Government had signed a cooperation agreement with the Court to ensure protection for the investigators, guarantee them easy access to the records and provide them with means of communication in all parts of the country. As a further step to ensure that the Court could act with independence, confidence and security in the country, on 12 October 2004 the Government had signed an interim protocol of agreement on the immunities and privileges of the Court, to cover the period until the process of acceding to the Agreement on the Privileges and Immunities of the International Criminal Court could be completed.

15. The Prosecutor's announcement had given rise to excitement in the Democratic Republic of the Congo, worry among the perpetrators, satisfaction among the victims and reassurance among the entire population traumatized by conflict, since it was felt that the Court's action would discourage the commission of new atrocities. There was keen interest among the victims in the possibility that the Court could order reparations. Given the high expectations of the Congolese people, an awareness-raising campaign would be necessary to inform the public about the basic rules of the Court, so that victims would have a realistic idea of what claims they could justly bring and what rights they had to participate in the proceedings.

16. Since the Court operated on the basis of the principle of complementarity and could not take the place of the national system of justice, a reform of the judiciary was under way and deserved the support of the international community. The obstacles were formidable, particularly in view of the increase in crime, a common phenomenon in the transition from conflict to new democratic structures, and it was to be feared that without help the criminal justice system would be unable to cope with the many problems of international scope, such as organized crime, money-laundering, illicit arms trafficking and the illegal exploitation of the country's natural resources. The Government was pleased with the results of a programme launched with the cooperation of the European Commission and the Government of France to restore a criminal justice system in Bunia in the eastern part of the country and would urge donors to help to extend the programme to other parts of the country. Convinced that technical and financial assistance was essential for the establishment of the rule of law in the Democratic Republic of the Congo, his delegation appealed to all peace-loving nations to assist the country in strengthening its system of justice, fighting impunity and restoring peace to the Central African subregion.

17. The Democratic Republic of the Congo reaffirmed its commitment to the Court and urged full respect for the integrity of its Statute. It welcomed the accession of Burundi, Guyana and Liberia as further steps towards universality and hailed the signing of the Relationship Agreement between the Court and the United Nations as evidence of their determination to make common cause against impunity.

18. **Mr. Løvald** (Norway) said that his Government wished to commend the host country, the Netherlands, for providing outstanding support to the International Criminal Court during its transition from the setting-up

phase to the commencement of prosecutorial and judicial functions. The announcement by the Prosecutor that there was a reasonable basis to open investigations into crimes allegedly committed in the Democratic Republic of the Congo and in northern Uganda showed that the Court had become fully operational. It was significant that the first two situations dealt with by the Court stemmed from referrals by the Governments directly concerned. The commencement of operations had added urgency to the need for States to sign and ratify the Agreement on the Privileges and Immunities of the International Criminal Court and to honour their financial commitments. Norway welcomed the recent signing of the Relationship Agreement between the United Nations and the International Criminal Court, which would provide the basis for a continuing relationship and information-sharing between the two organizations while respecting their autonomy and confidentiality.

19. The acceptance of the Rome Statute by more than half of the States Members of the United Nations in only six years was a remarkable achievement, but the ultimate goal remained universality. While calling on those States that had not yet done so to consider acceding to or ratifying the Rome Statute, Norway would continue to promote dialogue on issues concerning the fight against impunity for the worst international crimes even with States that had shown a preference for addressing those issues solely within the framework of their own national systems. Its approach was guided by the fullest respect for the integrity of the Statute and the wish to demonstrate over time that the Court was an independent, impartial and objective institution and served the national interest of States committed to the rule of law. His delegation was pleased that in June 2004 the Security Council had not renewed the request for a resolution granting immunity from the jurisdiction of the Court to United Nations peacekeepers from a contributing State which was not a party to the Rome Statute.

20. **Mr. Kanu** (Sierra Leone) said that the horrendous crimes committed in his country demonstrated that absence of the rule of law created an atmosphere in which the commission of crimes under international law was not only possible, but could even flourish. The rule of law was therefore an essential ingredient of justice and accountability and the International Criminal Court was the sine qua non for reinforcing the fundamental principle of individual criminal responsibility for crimes under international law and for bringing alleged war criminals to justice.

21. Despite the strides taken towards making the Court a functioning institution, much work still needed to be done to establish a fully effective international criminal justice system with the Court at the helm. Even universal ratification of the Rome Statute would not be enough; the Statute had to be incorporated in domestic law through implementing legislation, especially in countries with a dualist legal system. His Government was thinking of organizing a consultative conference to enable civil society, members of parliament, lawyers and judges to provide input into the implementation process.

22. The Assembly of States Parties had tremendous responsibilities to the Court and, by extension, to the new international criminal justice system. It should therefore develop mechanisms and expertise for fulfilling its mandate effectively. One possible means of achieving that goal might be to restructure meetings of the Assembly of States Parties with a view to maximizing participation, efficiency and oversight of the Court. For that reason, his delegation endorsed the recommendation that the Assembly of States Parties should establish a number of subsidiary bodies which would also meet outside regular sessions of that Assembly. Furthermore, his Government was strongly in favour of the Court establishing a New York liaison office, since many developing countries had no representatives in The Hague and it was important for the Court to have a close relationship with the United Nations. Cooperation between the two bodies would clearly be fostered by the Relationship Agreement, which would, in addition, give the Court access to the vital support of the United Nations.

23. A number of non-governmental organizations had made an invaluable contribution to the establishment of a fair, transparent and credible international criminal justice system and had facilitated the participation of many delegations from developing countries in the third session of the Assembly of States Parties. His own Government had an unfettered commitment to democracy, the rule of law and the independence of the Court and it would work tirelessly to ensure the Court's effective operation.

24. **Mr. Mwandembwa** (United Republic of Tanzania) said that it was highly significant that the Assembly of States Parties had been able to hold its

third session in The Hague, at the very seat of the Court. His delegation urged all States parties to renew their efforts to assist the Court in the commencement of its operations, including by paying their contributions in full and on time. The commencement of operations would encourage undecided States to become parties and lead to universal acceptance of the Court. His delegation wished to commend the Democratic Republic of the Congo and the Republic of Uganda for referring situations to the Prosecutor, and the Prosecutor for agreeing to take the initiative in investigating events in those countries. As a close neighbour, the United Republic of Tanzania pledged full cooperation with the Court in its efforts. His Government had already signed the Agreement on the Privileges and Immunities of the International Criminal Court, and the ratification process was under way. The Agreement was of the utmost importance, since the Court did not enjoy the privileges and immunities of the United Nations. The Tanzanian Ministry of Justice was also considering the best way to address the important question of implementing legislation. His delegation wished to thank all those involved in setting up and contributing to the trust fund for the participation of the least developed countries in the activities of the Assembly of States Parties.

25. **Mr. Qi** Dahai (China) said that China had long supported the establishment of an impartial, independent, effective and universal international criminal court and had attended the third session of the Assembly of States Parties as an observer. China commended the intense preparatory work done by the judges, prosecutors and all other staff to ready the Court to begin operations and hoped that the spirit of coordination and cooperation that had prevailed would set the tone for the Court's future functioning. The Office of the Prosecutor had opened two investigations, in the Democratic Republic of the Congo and northern Uganda, and was conducting an in-depth analysis of six situations. The stated policy of the Office of the Prosecutor was to take a positive approach to cooperation and to the principle of complementarity and encourage State jurisdiction over international crimes in order to enable the Court to devote its energy to the most serious crimes. To implement the policy, the Office of the Prosecutor had established a Jurisdiction, Complementarity and Cooperation Division. His delegation hoped that the Prosecutor would maintain that pragmatic spirit, so that the principle of complementarity would form a genuine basis for the functioning of the Court. The Court had been given the task of fulfilling mankind's aspiration for justice, a daunting challenge, and it should devote the bulk of its limited resources to the punishment of the most serious international crimes. His delegation hoped that the Court would succeed in winning broad international trust and support through impartial and effective work.

26. **Mr. Rostow** (United States of America) said that United States opposition to the International Criminal Court was well-known. Its position was based on strong bipartisan agreement, reflected in the American Serviceman's Protection Act. United States concerns related to jurisdiction, due process, accountability, the relationship between the Court and the United Nations and the potential politicization of the Court.

27. With respect to jurisdiction and due process, the United States position was that citizens of States not parties to the Rome Statute should not be subject to the jurisdiction of the Court, a position consistent with the international law principle that a State could not be bound without its consent. The United States maintained that the application of its criminal justice system was not subject to review. If a United States soldier was prosecuted in the United States for war crimes, no international court should have the power to review the decision; if a United States prosecutor should decide not to bring a case, that decision should not be subject to review. The principle of multiple jeopardy was at stake.

28. The United States also questioned whether the Court, as structured, would truly be accountable to the Assembly of States Parties or indeed to any body. It was also troubled by the relationship between the Court and the international system governed by the Charter of the United Nations, which assigned to the Security Council the responsibility for determining whether aggression had taken place. Lastly, his delegation wished to thank those who had supported its position, reflected in General Assembly resolution 58/318, that the United Nations should only provide services to the Court on a strictly reimbursable basis.

29. **Ms. Ramos Rodríguez** (Cuba) said that her country had supported and would continue to support the establishment of an international criminal court that was impartial, non-selective, effective, fair and complementary to national systems of justice, a court that was truly independent and not subordinate to

political interests that might subvert it. However, the International Criminal Court as constituted was heavily subordinate to the decisions of the Security Council and hence hostage to the threat of a veto by one of the Council's permanent members, with the result that States not parties to the Rome Statute could exercise control over the work of the Court, undermining assurances that the Court would not act in a selective, politicized and discriminatory manner.

30. Cuba was no enemy of the Court, but followed the sessions of the Assembly of States parties with interest as an observer. It recognized that the Rome Statute was of great importance to international law. However, early hopes that the crime of aggression could be defined had not yet been fulfilled. It was a hopeful sign that the Special Working Group on the Crime of Aggression had been able to meet informally in June 2004 at Princeton University. Unfortunately, in yet another example of the limitations that a non-State party could impose on matters related to the Court, her delegation had been prevented by the United States authorities from attending the Working Group, in clear violation of the Headquarters Agreement and the rules of diplomatic law. Apparently, the host country chose to consider that the International Criminal Court had nothing to do with the United Nations. Cuba, a small country constantly victimized by the world's largest Power, was naturally reluctant to accede to the Rome Statute without a clear definition of the crime of aggression.

31. **Mr. Kuzmenkov** (Russian Federation), after noting with satisfaction the growing number of States Parties to the Rome Statute, said that the success of the International Criminal Court would depend largely on whether it acted objectively and without political bias, in accordance with the Statute and international law. His delegation welcomed the conclusion of the Relationship Agreement between the Court and the United Nations. Cooperation between the two bodies would serve as a symbol of the international community's determination to do away with impunity and promote the rule of law.

32. The Russian Federation was in the course of aligning its domestic legislation with the provisions of the Rome Statute. Once that process was complete, and once the first results of the Court's work were known, ratification would follow.

33. The widest possible consultations should be held on the question of the definition of the crime of aggression, to include both States that had ratified the Statute and those that had not. At the same time, there must be full respect for the prerogatives of the Security Council under the Charter of the United Nations on issues relating to the maintenance of international peace and security. Indeed, the Rome Statute should contain an explicit reference to the role of the Security Council in establishing the fact that an act of aggression had been committed before the Court obtained jurisdiction in such a case.

34. **Mr. Kupchyshyn** (Ukraine) said that the Court was now a reality as a major building block of the international security system. The first sessions of the Assembly of States Parties had been a momentous event in the process of establishing the Court and ensuring its ability to fulfil its mandate. In that connection, his delegation welcomed the entry into force of the Agreement on the Privileges and Immunities of the Court and the Relationship Agreement between the Court and the United Nations, as well as the establishment of the permanent secretariat of the Assembly of States Parties.

35. The system of international criminal justice based on the Rome Statute would be incomplete without the definition of the crime of aggression, including the elements of the crime, and the jurisdiction of the Court in that regard. Defining the crime of aggression should remain a core issue for the Assembly of States Parties.

36. All States must cooperate with the Office of the Prosecutor and provide it with all necessary assistance. For its part, the Court must conduct efficient, transparent and fair investigations and prosecutions, and seek equitable geographical representation and gender balance in the recruitment of staff.

37. Ukraine remained committed to the Court and was confident that the international community would demonstrate the political will further to develop such an independent and effective international judicial institution.

38. **Mr. Paolillo** (Uruguay) noted that there had been a number of auspicious developments concerning the Court in recent months, including the adoption of a series of important resolutions by the nearly 100 States Parties to the Rome Statute. The President of the Assembly of States Parties had been elected by one such resolution.

39. Uruguay urged those States that had begun the constitutional processes necessary for the ratification of the Rome Statute to complete them as quickly as possible. The Court's birth and first steps had taken place in a turbulent environment, and it now needed the strongest support of the international community. The best way to show such support was for States that had not yet done so to deposit their instruments of ratification.

40. The referral of cases by the Democratic Republic of the Congo and Uganda, respectively, was an eloquent expression by those States of their confidence in the Court. Their decisions would have far-reaching effects: the opening of the investigations in those cases would send a clear message to all States that a new era in the history of international justice had begun. The possibility of impunity for perpetrators of the crimes defined by the Rome Statute had been reduced. That idea had already taken root, even in those sectors originally most opposed to the Court, as evidenced by the non-renewal by the Security Council of resolution 1487 (2003), a resolution which Uruguay had held to be inappropriate, discriminatory, unnecessary and in violation of the Charter of the United Nations and international law.

41. A draft law under consideration in the Uruguayan Parliament would guarantee the incorporation of the Rome Statute into Uruguay's domestic legislation. The law included not only the provisions of the Statute but also the two additional instruments adopted by the Assembly of States Parties in September 2002. It assigned primary responsibility for the prosecution and punishment of all acts defined as crimes in articles 6 to 8 of the Statute to the national courts and guaranteed the application of the principle of complementarity. It also dealt in detail with all aspects of cooperation with the Court, including referrals, detention procedures and the surrender of persons to the Court.

42. **Mr. Tajima** (Japan) noted that the Court would begin investigating events in the Democratic Republic of the Congo and Uganda. However, because of the principle of complementarity set out in the Rome Statute, the Court's activities should not be evaluated solely on the number of cases assigned to it.

43. Although Japan had yet to accede to the Rome Statute, it had participated actively in all meetings related to the Court, including discussions on the budget. Japan attached great importance to effective and responsible financial management, so that the financial responsibilities of the States Parties would not become too burdensome. Budgetary increases should be subject to authorization by the States parties, but while the latter must be able to exercise control in such matters, the independence of the Court must be respected.

44. The Court must conduct its activities in a transparent manner, so as to dispel by its own actions any of the concerns or scepticism directed at it, often mistakenly. Given the limited financial and human resources of the Court, States should strictly refrain from resorting to it in search of convenient solutions to situations that were their own responsibility. However, the possibility that, in the future, one party to a conflict might seek to use the Court to strike at an adversary could not be ruled out, and the Court must therefore take steps to ensure the impartiality of its investigations.

45. **Mr. Stagno Ugarte** (Costa Rica) said that the establishment of the Court was one of the greatest successes achieved by the international community in recent years. In that connection, Costa Rica welcomed the recent ratification of the Rome Statute by Burundi, Guyana and Liberia.

46. The Court was a powerful tool in the fight against impunity and future commission of atrocities, war crimes and crimes against humanity. The Prosecutor was known throughout the world for his courage and legal and political realism. His blueprint for the Court would ensure that it would not only render justice but also contribute to peace and reconciliation following armed conflicts. The Court had been further strengthened by the recent election of a second Deputy Prosecutor. Costa Rica hoped it would be further strengthened in coming months, when the cases concerning the Democratic Republic of the Congo and Uganda were taken up. His country particularly appreciated the willingness of those States to submit their domestic situations to the Court and the good faith demonstrated by such an act.

47. Costa Rica was confident that in the future the Court would work ever more closely with the Security Council in the promotion of international peace and security. The Court's role in discouraging the commission of atrocities and war crimes would contribute greatly to the Council's work in promoting respect for the rule of law. Costa Rica called upon all

States to work together to strengthen the Court, in keeping with the Secretary-General's recent appeal for the full support of the international community in that regard.

48. **Mr. Much** (Germany) informed the Committee of the existence of the informal Group of Friends of the International Criminal Court, which was composed of approximately 110 States, including the 97 States Parties to the Rome Statute. It functioned to uphold and intensify political commitment to the Court, in New York, coordinating political support, conducting information exchanges and working to raise awareness of the Rome Statute and its relevance to the work of the United Nations. He thanked non-governmental organizations, in particular the Coalition for the International Criminal Court, for their efforts in promoting the Court.

49. All regions of the world were represented in the Group, as illustrated by the geographic distribution of its coordinators for specific issues: Brazil, Canada, Jordan, Mexico, New Zealand, the Republic of Korea, Romania and Uruguay. Among the members were States in conflict or post-conflict situations, attesting to their perception of the Court as being important to the establishment of sustainable peace.

50. Some delegations had argued that the Court was politically dangerous or legally flawed. The important fact remained that 110 countries worked together with civil society to promote the Court and would continue to do so. He indicated that Germany was coordinator of the informal Group.

51. **Mr. Grey-Johnson** (The Gambia) said that the Court had made great progress, and his delegation was very pleased that all the institutional arrangements were fully operational. The cases referred to the Court by the Democratic Republic of the Congo and Uganda, the constitution of the pre-trial chambers and the opening of the investigations in those cases marked a victory for the Court and an affirmation of confidence in it. All who believed in the pursuit of justice and the rule of law should be energized by that fact alone. Such confidence was increasing at an impressive pace, but it was not yet time to become complacent. Universality remained the final goal, and all delegations should work together to that end.

52. His delegation welcomed the signing of the Relationship Agreement between the Court and the United Nations. The two organizations needed each other's support in their shared purpose of maintaining international justice and the rule of law. The Security Council and the Court must strengthen their ties as soon as possible and work together constructively.

53. Progress had not been achieved by accident, but through commitment, dedication and unflinching support for the Court and its mandate. The future belonged to those who were determined to confront impunity, not to the Court's detractors, and the Gambia would do everything it could to advance the Court's interests.

54. **Ms. Ramoutar** (Trinidad and Tobago), speaking on behalf of the States members of the Caribbean Community (CARICOM), welcomed the increase in the number of States parties to the Rome Statute including the recent ratification by Guyana, a CARICOM member State. She urged States that had not yet done so to ratify or accede to the Statute, to adopt the necessary implementing legislation and to ratify and implement the Agreement on the Privileges and Immunities of the International Criminal Court, which would ensure that the latter was in a position to conduct its work properly.

55. The recent referral of two different situations to the Prosecutor by two States was an indication of the trust that States placed in the Court. The Court would, however, need to be able to rely on the international community's cooperation in the conduct of investigations, the taking of evidence, the service and execution of warrants and access to prison facilities. Equally, it must be able to count on the political support of States.

56. The signature of the Relationship Agreement between the Secretary-General and the President of the Court was of crucial importance for the international community. The Court and the Security Council could develop a similar relationship, which would ultimately benefit the innocent victims of conflict.

57. The Rome Statute was the first international instrument to confer on victims of genocide, war crimes and crimes against humanity the right of participation in and application to a trust fund for reparations. The CARICOM States welcomed the establishment of the secretariat of the Trust Fund for Victims, which would assist the Board of Directors of the Fund in their important task, and urged States to participate in the work that remained to be done. In that context, she informed the Committee that her

Government had recently agreed to contribute US$ 50,000 to the Fund, as well as US$ 10,000 to the trust fund for the participation of least developed countries in the work of the Assembly of States Parties.

58. Lastly, the CARICOM countries urged States participating in the Special Working Group on the Crime of Aggression to demonstrate the political will to overcome the difficulties standing in the way of consensus. It was important to have a text ready for adoption by the Review Conference in 2009 and, though that date seemed distant, the Assembly was likely to meet only once a year on substantive issues.

59. **Mr. Adsett** (Canada) said that his delegation was a staunch supporter of the International Criminal Court, which represented the world's best hope for combating impunity. The significant progress made over the past year was therefore welcome. The two referrals to the Court — by Uganda in December 2003 and the Democratic Republic of the Congo in March 2004 — bore eloquent witness to the confidence of States parties in the Court, which had already shown that it was not politicized but was rather a conscientious and responsible judicial body. The recently concluded Relationship Agreement between the Court and the United Nations was extremely significant in that context. The United Nations should take every opportunity to support the Court's crucially important work. When an appropriate situation arose, the Security Council should exercise its authority under the Rome Statute to refer situations to the Court. Such cooperation would ensure that the world's worst criminals were brought to justice and their victims protected. His delegation urged all States to help strengthen the Court.

60. **Mr. Hahn** Myung-jae (Republic of Korea) said that, since becoming a party to the Rome Statute in February 2003, his Government had been actively supportive of the International Criminal Court. It was currently enacting the implementing legislation for the Rome Statute and a judge from the Republic of Korea was serving in the Appeals Division. The Government had also signed the Agreement on the Privileges and Immunities of the Court.

61. His delegation had high hopes for the Court's investigation into the situations in Uganda and the Democratic Republic of the Congo, on the basis of referrals from those States themselves. Such progress would not have been possible unless the international community had had confidence in the Court.

62. His delegation welcomed the recent signing of the Relationship Agreement between the United Nations and the Court and commended the large number of States that had ratified the Rome Statute. An outreach programme for States that had not yet ratified the Statute should be conducted in order that the Court might achieve the goal of universality. In that context, his Government had held a special round table on international humanitarian law in 2003, with special emphasis on the role of international criminal courts. Such regional gatherings could contribute to enhancing States' awareness of the Court's importance.

63. **Mr. Maqungo** (South Africa) said that the International Criminal Court was very much in need of continued commitment from the international community, which must ensure that the Court had the resources needed to carry out successful investigations and prosecutions. States parties to the Rome Statute must meet their assessed contributions fully and on time. The international community should also make voluntary contributions to the Court and to the Trust Fund for Victims.

64. His delegation welcomed the Relationship Agreement between the Court and the United Nations, since a close working relationship between the two was essential. In that context, his delegation urged the Security Council to make use of the authority granted to it by the Rome Statute to make referrals to the Court, where appropriate. The number of ratifications of the Rome Statute was encouraging, but he urged States that had not yet done so to ratify the Statute.

65. **Ms. McIver** (New Zealand) said that the first years in the life of the International Criminal Court were crucial in ensuring that it fulfilled its potential. There had been important developments over the past year, including the Court's first two formal investigations and the conclusion of the Relationship Agreement between the United Nations and the Court. Mutual respect for the respective roles of the Court and the Security Council was also important and her delegation therefore welcomed the Security Council's decision not to renew its resolution 1487 (2003), which was inconsistent with the terms and purpose of article 16 of the Rome Statute. The Security Council should cooperate fully with the Court. National courts should, of course, remain the first line of prosecution; but in

some instances the nature or gravity of the crimes, the political situation in question or the capacities of the national system concerned would make it necessary to rely on an international process. In such situations, the Security Council should recognize the role of the Court and refer situations to it, if the circumstances so required.

66. To be fully effective, the Court should have the greatest possible geographical reach. Her delegation therefore welcomed recent ratifications of the Rome Statute and urged other States to become parties. The effective functioning of the Court depended, however, not just on ratification but on full implementation of the Rome Statute and of the Agreement on the Privileges and Immunities of the International Criminal Court, which New Zealand had ratified earlier in the year.

67. The Rome Statute contained a comprehensive range of checks and balances to prevent abuse. While her delegation understood the sincerity of the few States that had reservations about the Court, it was confident that the Court's operations would assuage their concerns. It was to be hoped that all States would cooperate with the Court.

68. **Ms. Katungye** (Uganda) said that the number of ratifications of the Rome Statute, which had reached nearly 100, were a confirmation of the Court's relevance to a world that sought to end impunity and to increase respect for international law. Her delegation considered particularly significant the signing of the Relationship Agreement between the Court and the United Nations; the adoption at the third session of the Assembly of States Parties of a resolution on the procedure for the nomination and election of judges; and the generous contributions by a number of countries to the Trust Fund for Victims.

69. Her delegation welcomed the fact that the Court would pronounce on the cases of the Democratic Republic of the Congo and northern Uganda, where the gruesome massacre of innocent civilians by the self-styled Lord's Resistance Army continued. Entire villages had been wantonly laid waste and their inhabitants hunted down, killed, raped or grievously maimed. It was therefore very encouraging that investigative teams had been sent to assess the situation in readiness for pre-trial proceedings. Her delegation trusted that reconciliation could ultimately be achieved and at the same time that others would learn that the international community would no longer tolerate impunity. Her Government, which had already pledged and demonstrated its support for the Court, looked forward to the bringing to justice of all those bearing the greatest responsibility.

70. Her Government was making every effort to ensure that the implementing legislation was enacted quickly. Since the ratification procedure for the Agreement on the Privileges and Immunities of the International Criminal Court was currently in the process of ratification, it had been decided that the implementing legislation should cover both the Rome Statute and the Agreement.

71. The Uganda Human Rights Commission, which was constitutionally mandated to monitor the Government's compliance with its international human rights treaty obligations, had recently organized a consultative meeting to seek the views of the public on the impact of the Court's investigations of the war in Uganda. It was thus hoped that the Court proceedings would link up with local efforts to bring healing to the people of northern Uganda and, indeed, the whole country.

72. **Mr. Awanbor** (Nigeria) said that the recently concluded Relationship Agreement between the United Nations and the International Criminal Court marked a new phase of mutually beneficial cooperation between the two bodies. His delegation commended the Court as a global judicial institution that would fight impunity and ensure respect for international humanitarian law. The judges and principal officers of the Court, with their impeccable records, professionalism and competence, would ensure that the Court would be independent and impartial. The large number of States parties to the Rome Statute was encouraging, in that it was indicative of the international community's growing confidence in the Court's ability to combat impunity, genocide, war crimes and other crimes against humanity.

73. Since the Court was still a relatively young institution, his delegation believed that the Assembly of States Parties should hold its meetings alternately in The Hague and New York, on a yearly basis, in line with the provisions of article 112 of the Rome Statute. Such an arrangement would enhance the Court's political visibility in New York, where there was already global representation, and would encourage the participation of many more developing countries,

particularly African States that had no adequate diplomatic representation in The Hague.

74. His delegation believed that the relationship between the Court and the ad hoc international criminal tribunals was complementary. It therefore expected the Court to follow the precedents already set by the three ad hoc tribunals. Lastly, his delegation called on States that had not yet done so to become parties to the Statute, since only universal adherence would engender the desired confidence in the Statute.

75. **Mr. Paclisanu** (International Committee of the Red Cross (ICRC)) said that the essential dignity of human beings was often among the first casualties of war and other forms of violence, despite the near universal support for the Geneva Conventions of 1949. An effective system to deal with war crimes was therefore fundamental; impunity could, indeed, nurture the cycle of retribution and revenge. The establishment of the International Criminal Court raised the hope that crimes of the utmost brutality would no longer go unpunished and that its work would have a deterrent effect. Moreover, with 97 States already parties to the Rome Statute, it was to be hoped that the Court would eventually become truly universal.

76. The Court's capacity to fulfil its task would depend largely on the level of support received from States. It was therefore crucial that ratification of and accession to the Statute should be accompanied by the adoption of adequate implementing measures. At the same time, since the Statute was founded on the principle of complementarity, States must assume their primary responsibility to repress crimes falling within the Court's jurisdiction in their domestic legal systems. Over the years, States sometimes became party to a variety of international instruments but failed to ensure that their national legislation provided for the prosecution of violations of such instruments. ICRC encouraged States to conform to their obligations arising from the Rome Statute and any other international humanitarian law instruments to which they were parties. Through its Advisory Service on International Humanitarian Law, ICRC stood ready to provide concerned States with legal advice and technical support in that regard.

Agenda item 147: Report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization (*continued*) (A/59/189)

77. **Mr. Mikulka** (Secretary of the Committee), speaking as the Director of the Codification Division, and responding to the request by the representative of Costa Rica for an update on the report of the Secretary-General on the *Repertory of Practice of United Nations Organs* and the *Repertoire of the Practice of the Security Council* (A/59/189), said that no update was needed on the information on the *Repertoire* contained in the Secretary-General's report. As for the *Repertory*, following the encouragement in General Assembly resolution 58/248 of efforts to eliminate the backlog in its publication, the following summary could be given of the results achieved over the past 12 months. Some studies pertaining to volume I of Supplements Nos. 7, 8 and 9, and volumes IV and VI, of Supplements Nos. 8 and 9, had been finalized. Work was currently in progress on a limited number of studies for volumes I, II, IV and VI of Supplement No. 9, some of which constituted work commenced in 2003.

78. In previous years, steady progress in the preparation of the studies had resulted in a substantial reduction of the backlog and, in the case of some studies, an elimination of the backlog altogether. Although the preparation of individual studies had continued in 2004, the lack of funds had affected progress in practically all departments and the rhythm of preparation of studies had slowed down considerably. In the previous biennium, the backlog had largely centred on volumes I and III of Supplements Nos. 7 and 8. The current pace of work was such that there was a risk that the backlog would increase for volumes where it had been gradually reduced in the past, such as volumes II and V of Supplement No. 8. In 2005, the backlog might well start to grow again for volumes IV and VI, where it had been almost eliminated with the completion of most of the studies for Supplement No. 8 and even some for Supplement No. 9, which reflected the most recent period of activity involving the Charter of the United Nations. No work could be started on studies for Supplement No. 10 until 2006, since the supplement would cover the years 2000 to 2005.

79. Since 2003, all finalized and approved studies had been posted on the Internet, even before the completion of the work on individual volumes. All

were available in English and a large number also in French and Spanish. The Secretariat would continue to make further French and Spanish language versions available electronically as early as possible, as requested in General Assembly resolution 58/248, paragraphs 9 and 10. The work involved scanning and then placing on the Internet studies pertaining to older volumes published in French and Spanish but out of print and not otherwise available. French and Spanish versions of studies pertaining to recently completed volumes in English could be placed on the Internet only once they had been translated.

80. As for the cooperation with academic institutions urged by General Assembly resolution 58/248, several externs had assisted for a few months with research for a study on Article 2, paragraph 4, of the Charter, to appear in Supplement No. 7. The experiment had shown that such cooperation, while fruitful in some respects, was useful only at the stage of the collection of research material and data. The bulk of the work of writing the studies invariably fell to the Secretariat.

81. **Mr. Stagno Ugarte** (Costa Rica) said that the Committee should take note of the candid report given by the Director of the Codification Division and give due consideration to recommendations that might alleviate the Division's difficulties, such as those put forward by the Rio Group on the establishment of a trust fund.

The meeting rose at 1.05 p.m.

United Nations A/C.6/59/SR.7

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Chairman: Mr. Bennouna ..... (Morocco)
later: Mr. Dhakal (Vice-Chairman) ..... (Nepal)

Contents

Organization of work (*continued*)

Agenda item 148: Measures to eliminate international terrorism

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04-55854 (E)

The meeting was called to order at 10.20 a.m.

Organization of work (*continued*)

1. **The Chairman** informed the Committee that the General Assembly had decided to allocate an additional item to the Committee's agenda, namely item 160, entitled "Observer status for the Organization of Eastern Caribbean States in the General Assembly".

Agenda item 148: Measures to eliminate international terrorism (A/59/37 and 210 and Corr.1; A/C.6/59/L.10)

2. **The Chairman** recalled that paragraph 5 of Security Council resolution 1566 (2004) called upon Member States "to cooperate fully on an expedited basis in resolving all outstanding issues with a view to adopting by consensus the draft comprehensive convention on international terrorism and the draft international convention for the suppression of acts of nuclear terrorism". The importance of consensus in the elaboration of the two draft conventions was paramount, in his view. He invited the Chairman of the Ad Hoc Committee established by General Assembly resolution 51/210 of 17 December 1996 and of the Working Group on Measures to Eliminate International Terrorism to introduce the reports of those bodies.

3. **Mr. Perera** (Chairman of the Ad Hoc Committee established by General Assembly resolution 51/210 of 17 December 1996 and of the Working Group on Measures to Eliminate International Terrorism) said that the report of the Ad Hoc Committee (A/59/37) consisted of three chapters — the introduction, a description of the proceedings and the Committee's recommendations — and three annexes. Annex I contained an informal summary of the general discussion; annex II reproduced the oral reports by the coordinators on the results of informal consultations on the draft comprehensive convention and the draft nuclear terrorism convention; and annex III contained written amendments and proposals submitted at the eighth session of the Ad Hoc Committee relating to the draft nuclear terrorism convention.

4. The Working Group's report (A/C.6/59/L.10) consisted of three sections and an annex. He noted that, section III contained the Working Group's decision to refer its report to the Sixth Committee and its recommendation that work should continue on finalizing the text of a draft comprehensive convention on international terrorism and a draft international convention for the suppression of acts of nuclear terrorism, building on the work already accomplished.

5. Several delegations had informed him that consultations on the question of convening a high-level conference under the auspices of the United Nations to formulate a joint organized response to terrorism in all its forms and manifestations were continuing and had reiterated their wish that the item should be kept on the agenda. As to Security Council resolution 1566 (2004), informal consultations had demonstrated that, while divergences in approach remained on the key outstanding issues, there was a clear realization that work on the draft conventions should be finalized. The coordinator for the comprehensive convention had referred, in his oral report, to the renewed interest of delegations in exploring alternative approaches, while the coordinator for the nuclear terrorism convention had reported that several delegations found the text reproduced in annex III to the report of the Ad Hoc Committee acceptable, although others had expressed concern about article 4, paragraphs 2 and 3. Delegations must remain engaged so that the substantive work accomplished could be brought to fruition. The Sixth Committee had a clear responsibility to make its due contribution towards strengthening the international legal framework for combating international terrorism. Given the requisite political will and a spirit of flexibility, the remaining differences could be reconciled.

6. **Mr. Suarte** (Brazil) speaking also on behalf of Argentina, Bolivia, Colombia, Costa Rica, Chile, the Dominican Republic, Ecuador, El Salvador, Guatemala, Guyana, Honduras, Mexico, Nicaragua, Panama, Paraguay and Uruguay, said that the information contained in the Secretary-General's report on measures to eliminate international terrorism (A/59/210 and Corr.1) was helpful in describing measures adopted by some States and international organizations to combat international terrorism, for which concerted action must be taken to strengthen national and international mechanisms. Progress had been made with the establishment of the Sanctions Committee on Sanctions against the Taliban and Al-Qaida pursuant to Security Council resolution 1267 (1999), the Counter-Terrorism Committee established pursuant to Security Council resolution 1373 (2001), and the Committee established pursuant to Security

Council resolution 1540 (2004). The Working Group recently established pursuant to Security Council resolution 1566 (2004) would need to propose new approaches to the struggle against terrorism while at the same time observing human rights standards, refugee law and humanitarian law.

7. General Assembly resolution 51/210 had established the Ad Hoc Committee with a view to elaborating two draft conventions. It was a matter of concern that the political will was lacking to make substantive progress on either. The mere possibility that terrorists could gain access to nuclear weapons undoubtedly constituted one of the most serious dangers facing every country in the world. No opportunity should be missed to reach agreement on the draft nuclear terrorism convention as soon as possible. Efforts should also be redoubled with regard to the draft comprehensive convention. The coordinators should therefore continue to undertake consultations during the intersessional period with a view to finding constructive solutions to the few outstanding issues.

8. Speaking on behalf of his own delegation, he said that Brazil had ratified nine of the interlocking international conventions on judicial cooperation and looked forward to shortly acceding to the remaining instruments, which were currently under consideration by Congress. The country's domestic legislation was also under review in order to enhance Brazil's contribution to the global struggle. The Government had already submitted four reports to the Counter-Terrorism Committee. The international community should redouble its efforts to reach an early conclusion to the negotiations on a comprehensive counter-terrorism convention, which would help it to come to grips with a diffuse phenomenon that still eluded a generally agreed definition. Moreover, the adoption of such a convention would send a powerful message indicating the international community's determination to deal with the threat. His delegation supported the proposal that, once the draft convention was completed, an international conference should be convened to underscore the international commitment to developing coordinated and comprehensive anti-terrorist strategies.

9. Despite the urgency of dealing decisively with international terrorism, a heightened sense of vulnerability should not lead to a loss of fundamental rights and principles or prejudice other, equally urgent battles. The fight against terrorism was self-defeating if waged outside international human rights norms or in a manner incompatible with the Charter of the United Nations. The changes wrought by the increase in terrorist attacks must not blind the world to the daily drama of those carrying the burden of social and economic inequalities. The solidarity with which terrorism was being combated must also be deployed in finding long-lasting solutions to the issues closely identified with the root causes of terrorism, such as despair and frustration. Terrorism would fail when global stability, based on prosperity, peace and a culture of human rights and tolerance for all, was established. The United Nations was uniquely placed to meet the challenge of establishing such stability.

10. **Mr. Hamburger** (Netherlands) speaking on behalf of the European Union, the candidate countries Bulgaria, Croatia, Romania and Turkey, the stabilization and association process countries Albania, Bosnia and Herzegovina, Serbia and Montenegro and the former Yugoslav Republic of Macedonia, and the EFTA countries Iceland and Norway, members of the European Economic Area, said that those countries unequivocally condemned all terrorist acts, regardless of their motivation, form or manifestation. While reaffirming its commitment to combating terrorism, however, the Union underscored the need for enhancing dialogue and broadening understanding among civilizations. Terrorism should not be identified with particular cultures or religions. Terrorists must be deprived of the ground for propaganda and recruitment, but the fight against terrorism must be carried out with full respect for democratic principles, the rule of law, human rights and, where applicable, international humanitarian law. The European Union was fully committed to the implementation of Security Council resolution 1373 (2001) and other Security Council resolutions relating to counter-terrorism. It also attached great value to the comprehensive legal framework established in the field of counter-terrorism by the General Assembly. The 12 United Nations conventions and protocols remained fundamental tools in the fight against terrorism and the Union urged all States that had not yet done so to become parties to those instruments.

11. On the recommendation of the Ad Hoc Committee established pursuant to General Assembly resolution 51/210, the Working Group on Measures to Eliminate International Terrorism had been established;

and the Union stood ready to continue deliberations in the framework of an ad hoc committee of the Sixth Committee. As for the question of convening a high-level conference under the auspices of the United Nations to formulate a joint organized response by the international community to terrorism in all its forms and manifestations, the European Union considered that discussion on the issue could best take place after the conclusion of the work on the comprehensive convention.

12. With regard to the draft comprehensive convention, the European Union continued to hold the view that such a convention would provide added value to existing anti-terrorist conventions by regulating issues that were so far unregulated. It should be possible to achieve consensus on the outstanding issues, while preserving the "acquis" of the existing conventions and of the negotiations to date on the comprehensive convention. The sectoral approach to the negotiation and conclusion of such conventions was sensible and successful. The European Union would therefore continue to strive for the early adoption by consensus of the draft nuclear terrorism convention. The need for such a convention remained urgent, especially in view of the implications if certain terrorist groups gained access to weapons of mass destruction. The European Union looked forward to the speedy conclusion of the elaboration of the draft convention.

13. Regional and subregional organizations played a critical role in enhancing the effectiveness of global action against terrorism. The European Union Action Plan on Terrorism, adopted by the European Council in March 2004, committed the European Union to developing technical assistance strategies to enhance the counter-terrorist capacities of third countries. Furthermore, the European Union counter-terrorism coordinator appointed pursuant to the Action Plan had started to facilitate greater coordination between the various European Union counter-terrorism initiatives, policies and activities.

14. **Mr. Le Luong Minh** (Viet Nam), speaking also on behalf of the member States of the Association of Southeast Asian Nations (ASEAN), said that terrorist attacks around the world constituted a serious threat to all peoples and countries. Terrorism was contemptible irrespective of its origins, motivation or objectives. The fight against it could be won only through comprehensive, balanced measures conforming in full with the purposes and principles of the United Nations Charter and with international law. It was essential to address the root causes of terrorism while at the same time rejecting any attempt to associate it with any religion, race, nationality or ethnic group. The United Nations was playing a leading role in the battle against terrorism and it was to be hoped that the draft comprehensive convention on international terrorism and the draft international convention for the suppression of acts of nuclear terrorism would be adopted in the near future in order to strengthen the legal framework already provided by the 12 existing international conventions and protocols on the prevention and suppression of international terrorism.

15. The ASEAN member States were striving to implement Security Council resolution 1373 (2001), which had marked a milestone in the fight against terrorism, and were appreciative of the work done by the Counter-Terrorism Committee. Since they were committed to active participation in the global struggle against terrorism, they attached great importance to building and consolidating regional coordination and cooperation. For that purpose a work programme to prevent and combat transnational crime had been put in place and ASEAN had established cooperation at the ministerial and senior official levels with China, Japan and the Republic of Korea to fight that kind of crime. In addition, ASEAN had issued joint declarations on cooperation to combat international terrorism with the United States of America, China, the European Union, India, Australia and the Russian Federation and a Memorandum of Understanding on Cooperation in the Field of Non-Traditional Security Issues had been signed with China. The Regional Ministerial Meeting on Counter-Terrorism and the Intersessional Meeting on Counter-Terrorism and Transnational Crime had likewise led to further cooperation and collaborative action in that field. Lastly, ASEAN had intensified cooperation with the United Nations agencies and other regional organizations in measures to resist transnational crime and terrorism by examining links between international terrorism and other criminal activities. ASEAN member States were thus resolved to make a worthy contribution to the common fight against international terrorism.

16. **Mr. Mishra** (India) said that the agenda item under consideration had acquired added importance owing to the cruelty and scale of terrorist attacks on soft targets. His country had been in the forefront of

the war on terrorism for almost two decades, was a party to all 12 sectoral conventions on the subject and had presented a draft comprehensive convention on international terrorism which was under consideration by the Ad Hoc Committee. Terrorism was the common enemy of all peoples, beliefs and religions; it undermined the very foundations of freedom and democracy and constituted a global threat. For that reason, there could be no compromise in the worldwide battle against it, since it attacked all sectors of society and, as terrorists' safe havens had been targeted, they had spread their networks across the world and appeared to cooperate more effectively than the democratic nations in their sights.

17. In order to avoid selective approaches, it was essential to ensure that standard-setting processes involved all States Members of the Organization. The 1994 Declaration on Measures to Eliminate International Terrorism had set the tone of the general approach against terrorism which had influenced all subsequent legal instruments adopted by the General Assembly in that field, including the sectoral conventions on terrorism, and it was testimony to a non-selective approach. His Government also fully supported Security Council resolution 1566 (2004), which was another important text because it called on Member States to cooperate fully in the fight against terrorism on the basis of the principle of extradition or prosecution and to resolve all outstanding issues with a view to adopting the draft comprehensive convention and the draft nuclear terrorism convention. The renewed interest shown by delegations in considering fresh proposals regarding those draft conventions was therefore encouraging. The draft nuclear terrorism convention seemed to be ready for adoption as it stood, but the Working Group of the Sixth Committee must pursue its deliberations in order to clear up the outstanding issues impeding the completion of the draft comprehensive convention.

18. **Ms. Ahn** Eun-ju (Republic of Korea) said that her Government had consistently condemned all terrorist acts. The Republic of Korea was a State party to the 12 conventions on international terrorism and was faithfully implementing all their provisions. In that connection, her Government welcomed the recent adoption by the Security Council of resolution 1566 (2004).

19. The Republic of Korea supported the early adoption of the draft comprehensive convention on international terrorism, as a measure to complement the existing 12 conventions. With regard to article 18, her Government supported the Coordinator's text, because the concerns that the proposal of the Organization of the Islamic Conference sought to address were already dealt with variously by the four Geneva Conventions of 1949 and/or the Additional Protocols thereto. Combatants forfeited their civilian status and were not protected under the Protocols. However, their participation in hostilities did not automatically transform them into terrorists and they were still protected under international humanitarian law. Nevertheless, those who committed terrorist acts during armed conflicts should not be left outside the scope of the comprehensive convention, given the lack of any relevant regime under international humanitarian law or existing counter-terrorism conventions. In general terms the comprehensive convention, designed to fill in the gaps left by existing counter-terrorism instruments, should follow such instruments as closely as possible.

20. Her delegation had noted a substantial willingness on the part of States to make progress during consultations on the draft international convention for the suppression of acts of nuclear terrorism. She stressed that her delegation would prefer that the language of the draft convention conform to the language of other sectoral conventions.

21. The early adoption of both draft conventions would demonstrate the international community's unequivocal commitment to condemn, effectively prevent, combat and eradicate terrorism throughout the world.

22. **Mr. Alimov** (Tajikistan) said that international terrorism was a historic global challenge threatening the civilized development of human society. In order to combat that scourge, a whole range of what had hitherto been regarded as unrelated issues had to be tackled as a nexus. For a number of years his country and its neighbours had acted as a buffer against the spread of the cancer of terrorism from Afghanistan. In practice it would be impossible to curb terrorism without a united effort by all States. That effort should be based on a single strategy not admitting of double standards. Hence Tajikistan had become an active member of the anti-terrorism coalition and of bilateral and regional structures grappling with terrorism and it was a party to all 12 global instruments on combating terrorism, as required by Security Council resolution

1373 (2001). It therefore supported the Counter-Terrorism Committee, which ought to be strengthened so that it could provide more effective technical assistance to States.

23. The sense of insecurity throughout the world, which was already aggravated by barbaric forms of violence and the proliferation of extremely destructive modern weapons, was being exacerbated still further by the ominous possibility of a combined threat of nuclear weapons and terrorism. The United Nations played a key role in formulating a global strategy to contend with such challenges and in providing a strong international legal basis for such action. The adoption during the current session of the draft international convention for the suppression of acts of nuclear terrorism would testify to the unity of the anti-terrorism coalition. At the same time an effort should be made to complete work on the draft comprehensive convention on international terrorism. It had long been clear that the obstacles in its path were of a political rather than a legal nature but despite political, interconfessional and psychological strains, the peoples of the world were entitled to expect that the international community would respond to the growth of transboundary violence in a spirit of solidarity.

24. **Ms. Tuğral** (Turkey), speaking on behalf of the Organization of the Islamic Conference (OIC), said that the OIC group of States strongly condemned all acts of terrorism and were convinced that terrorism, irrespective of motivation, could never be justified. Terrorism required a coordinated response from the international community, led by the United Nations, with the General Assembly playing an essential role. OIC members were prepared to explore new ideas and proposals to overcome the remaining differences and finalize the draft comprehensive convention on international terrorism as quickly as possible. A comprehensive convention required a clear and universally agreed definition of terrorism, one which differentiated it from the struggle of peoples for self-determination against foreign occupation in accordance with the Charter of the United Nations. Moreover, although terrorism should not be tolerated under any pretext, the international community had a moral duty to address the legitimate grievances caused by despair, resentment, ignorance and poverty that created a breeding ground for terrorism. The OIC group of States also strongly supported efforts to finalize the draft international convention for the suppression of acts of nuclear terrorism. They believed that the convening of a conference on terrorism under the auspices of the United Nations would galvanize collective international efforts to create the necessary legal framework.

25. **Mr. Tidjani** (Cameroon) said that for mankind, already threatened by conflict and hunger, terrorism had added a new dimension of fear. Despair, discord, hate, intolerance and violence spread daily, as the recent murderous terrorist attacks in Egypt and the hostage-taking in Beslan in the Russian Federation had shown. Terrorism generated paranoia, threatened collective security and undermined the normal functioning of society. No State was unaffected, and all, as States Members of the Organization founded to free human beings from fear, must act in a coordinated and concerted fashion to fulfil their responsibilities.

26. The first responsibility was to arrive at a definition of terrorism acceptable to and accepted by everyone. It was no easy matter, because where some saw terrorists, others saw freedom-fighters. Flexibility, a spirit of compromise and political commitment were required to accomplish the urgent task, in order to prevent violations of human rights under the pretext of combating terrorism. The next task was to create a comprehensive legal framework for the suppression of terrorism and fill in the gaps left by the sectoral conventions. It seemed that the work was not far from being completed, since most of the remaining differences related to article 18 of the draft comprehensive convention and concerned the decision whether to include or exclude the activities of military forces from the scope of application of the convention.

27. With regard to the draft convention for the suppression of acts of nuclear terrorism, his delegation believed that the threat of nuclear terrorism could be addressed most effectively by eliminating or more tightly controlling all nuclear weapons. Nevertheless, the adoption of the draft convention would be a step forward. Meanwhile, all Member States had the responsibility to ratify and implement the existing arsenal of legal instruments designed to combat terrorism. In that regard, it was important to reduce the technological gap among States in their capacity to combat terrorism, so that terrorists could no longer exploit it to escape detection.

28. It was also the responsibility of Member States, individually and collectively, to reject the controversial theory of the "clash of civilizations". Failure to respect

the values and beliefs of others fed hatred. By its very nature terrorism could not be equated with a religion, a civilization or a culture. Efforts were needed to promote intercultural understanding and cooperation among peoples. Lastly, Member States had a responsibility to look closely at the underlying causes of terrorism, such as poverty and social inequality. The best long-term strategy for overcoming terrorism was to promote democracy and social equality through the right to development.

29. His delegation supported the convening of a high-level conference under the auspices of the United Nations to formulate a joint organized response of the international community to terrorism in all its forms and manifestations and suggested that the Chairman of the Ad Hoc Committee could form a group of Friends of the Chairman to submit concrete proposals for the format of the conference and a document to serve as a basis for discussion. Cameroon also favoured the idea of establishing a more representative and operational structure in the form of an office of high commissioner to combat terrorism.

30. *Mr. Dhakal (Nepal), Vice-Chairman, took the Chair.*

31. **Mr. Lwin** (Myanmar) said his delegation believed that terrorism was one of the most important security issues in the twenty-first century and affected economic growth as well as stability. Innocent people all over the world, including in his own country, had been victimized. No country was immune, and the need for international cooperation had never been more urgent. Terrorism was a global phenomenon that called for a joint organized response of the international community under the leadership of the United Nations. Any measures taken must be in keeping with the Charter of the United Nations and respect basic human rights and fundamental freedoms. With regard to the draft comprehensive convention on international terrorism, Myanmar urged all parties to show maximum flexibility to reconcile the divergent positions on article 18 and article 2 bis.

32. Myanmar had already signed or acceded to 11 of the 12 main international legal instruments related to terrorism and was studying the remaining convention. In addition, it had acceded in 2004 to the United Nations Convention against Transnational Organized Crime and the Protocols thereto and had instituted rules for the control of money-laundering, an important aspect of terrorist financing. Myanmar had bilateral cooperation arrangements with its five neighbours on all issues of border security and mutual assistance in criminal matters, including terrorism.

33. **Ms. Al-Ghanem** (Kuwait) said that her delegation had taken note of the Secretary-General's report entitled "Measures to eliminate international terrorism" (A/59/210), which, inter alia, described the steps Kuwait had taken to combat terrorism, as detailed in her Government's third report to the Counter-Terrorism Committee.

34. It was essential to formulate a clear definition of terrorism so that the latter could not be confused with efforts to realize the right of peoples to self-determination as set forth in the Charter of the United Nations. In that connection, her delegation commended Saudi Arabia for offering to host an international conference on combating terrorism in February 2005.

35. Kuwait had promulgated a number of laws and established several committees concerned with terrorism, the most recent being the Committee to Combat Money-Laundering and the Financing of Terrorism set up to Ministerial Decree 11/2004. Kuwait had also frozen the assets of individuals and entities listed as being connected with Al-Qaida and the Taliban. In that connection, her delegation wished to emphasize the importance of ensuring that the names of such listed individuals and entities were given accurately, in order to prevent them being confused with other individuals or entities having similar names but no connection with terrorism, whose assets might otherwise be mistakenly frozen.

36. The member States of the Gulf Cooperation Council (GCC) had recently signed the GCC Convention on Combating Terrorism, which had been submitted to the Kuwaiti Parliament for discussion, together with the Arab Convention on the Suppression of Terrorism, the Convention of the Organization of the Islamic Conference on Combating International Terrorism and the International Convention for the Suppression of the Financing of Terrorism. Furthermore, Kuwait was a party to 11 of the 12 international conventions on combating international terrorism.

37. **Ms. Asmady** (Indonesia) said that her delegation wished to associate itself with the statement made by Viet Nam on behalf of the Association of Southeast Asian Nations and the statement of Turkey on behalf of the Organization of the Islamic Conference. Terrorism

constituted a serious threat to the peace and security of all nations and peoples and had both a national and an international dimension. The advent of globalization had enabled terrorist groups to build networks and find access to financing across State frontiers. Combating terrorism therefore called for concerted efforts on a global scale, with the United Nations at the centre. However, those efforts must be based on the Charter of the United Nations and must be consistent with international law and respect for human rights. Moreover, the international community must be aware of the need to combat not only the symptoms of terrorism but also its root causes, such as injustice and intolerance. It must also avoid the temptation to identify terrorism with any particular religion, race, nationality or ethnic group.

38. Through international cooperation, Indonesia had strengthened its national legal framework and enhanced its national capacity to address the threat of terrorism. Indonesia and Australia had co-chaired the regional ministerial meeting on counter-terrorism held in Bali in February 2004, which had recommended specific steps States in the region could take against terrorism. At the prevention stage, information-sharing and enforcement cooperation were the most important elements in combating transnational crime, and that applied to terrorism as well. As an outgrowth of the ministerial meeting, the Jakarta Centre for Law Enforcement Cooperation had been inaugurated in July 2004 to enhance the capacity of law enforcement agencies in the region to combat transnational crime, with a special focus on terrorism.

39. As a country that had suffered terrorist attacks, Indonesia was pleased to note that most of the articles of the draft anti-terrorist conventions under discussion had been agreed upon, with the exception of articles 2 bis and 18 of the draft comprehensive convention on international terrorism and article 4 of the draft international convention for the suppression of acts of nuclear terrorism. Although there were still divergent views on the definition of terrorism, the scope of application of the conventions and their relationship to other terrorism conventions, Indonesia believed that progress was being made and that consensus was possible. It supported the continuing work of the Ad Hoc Committee on the draft comprehensive convention, which reflected the enduring commitment of all States to the idea of a holistic global instrument capable of enhancing the efforts of States to halt the advance of terrorism. Her delegation also favoured the convening of a high-level conference under the auspices of the United Nations to reconcile the divergent views on the remaining articles of the draft conventions.

40. **Mr. Al-Ketbe** (United Arab Emirates) said that, although terrorism was a long-standing phenomenon, it had recently become one of the greatest challenges to international security, stability and development owing to globalization and the more sophisticated techniques employed by terrorists. It would appear to be an outgrowth of extremism, hatred or revenge and was not associated with any given region, culture, religion or nationality. There was a need to promote the implementation of the existing international conventions and also to re-evaluate the plans currently in place in order to improve transparency and objectivity in the policies, mechanisms and programmes for fighting terrorism, so as to eliminate double standards and ensure respect for human dignity and fundamental human and civil rights, without prejudice to particular cultures or creeds.

41. His delegation welcomed the offer of Saudi Arabia to host a conference in February 2005 for the purpose of sharing experiences in fighting terrorism. It also urged the convening of an international conference under the auspices of the United Nations to arrive at a clear definition of terrorism, strengthen existing counter-terrorism instruments and ensure their non-selective implementation. Terrorism must be distinguished from the legitimate struggle of peoples under foreign occupation for self-determination.

42. The United Arab Emirates had a long-standing, principled stance towards terrorism, which it considered to be one of the most dangerous crimes against humanity and wholly in contradiction to the teachings of Islam and other religions, human rights norms and the principles of sovereignty of States and their territorial integrity. The United Arab Emirates strongly condemned all acts of terrorism, including the kidnapping and killing of hostages and the recent attacks in Egypt. To combat terrorism, the United Arab Emirates had taken steps to implement the relevant Security Council resolutions, most recently by enacting a law criminalizing terrorist acts. Procedures had been put in place to tighten controls over accounts suspected of being used for terrorist financing. Serious efforts had been m de to develop the capacity of the Counter-Terrorism Unit of the Special Security Forces to

improve its control over customs and borders. New laws had been enacted prohibiting affiliation with terrorist groups and the use of the national territory, including airspace and territorial waters, for their activities. Similarly, laws had been enacted criminalizing money-laundering, gun running, drug smuggling, mercenary activities and the illicit exploitation of natural resources. The United Arab Emirates had formed a national counter-terrorism committee to report to the relevant Security Council committees and to discuss enhanced cooperation, particularly in training judicial staff. It had acceded to a number of international conventions relating to terrorism as well as the Arab Convention on the Suppression of Terrorism, and it was cooperating with neighbouring countries and international and regional organizations with regard to the exchange of information.

43. The United Arab Emirates was deeply concerned about the systematic State terrorism conducted by the Government of Israel against the Palestinian people on the pretext of fighting terrorism. It regretted that the members of the Security Council were deluded by Israel's false allegations, which prevented the Council from discharging its primary responsibility in resolving the question of Palestine. The United Nations had a responsibility to take effective and immediate measures to stop Israeli terrorism against the countries of the region and to ensure its withdrawal from the occupied Arab territories. If Israel had complied with the relevant resolutions, a just, comprehensive and lasting settlement of the Middle East question could have been reached long ago.

44. **Mr. Playle** (Australia) observed that the need for Member States to consider further measures to eliminate international terrorism was all too pressing. The recent bombing of the Australian embassy in Jakarta underscored the threat from terrorist groups in the Asia-Pacific region, and his Government appreciated the continuing cooperation of the Government of Indonesia in counter-terrorism efforts.

45. Despite some success in bringing to justice the perpetrators of terrorist atrocities, the challenge remained daunting. States must be as determined to combat terrorism as the terrorists were to find new ways to finance and commit their heinous acts. The General Assembly must continue to play a key role, and a comprehensive convention on international terrorism would give further authority and impetus to global counter-terrorism efforts. Australia also strongly supported efforts to finalize the draft convention for the suppression of acts of nuclear terrorism.

46. Much of the focus of counter-terrorism activity must take place at the local level. Accordingly Australia had launched a number of initiatives in the past year, including a regional ministerial counter-terrorism meeting in Bali, Indonesia, where it had acted as co-chair. The conference had established a working group designed to improve the regional legal framework to combat terrorism, chaired by Australia, and a working group of law enforcement practitioners, chaired by Indonesia.

47. Australia had committed substantial resources to the Jakarta Centre for Law Enforcement Cooperation, opened in July by the President of the Republic of Indonesia, and would host an inter-faith dialogue with Indonesia in December, to encourage the values of religious and cultural tolerance.

48. **Mr. Frank** (Switzerland) said that Switzerland condemned all forms of terrorism. Terrorist groups had neither moral nor religious scruples, and those responsible for terrorist acts must be either prosecuted and judged or extradited.

49. Switzerland was convinced that the comprehensive convention on international terrorism, based on a clear definition of terrorist acts as defined in article 2 of the draft, would be an appropriate complement to the existing 12 international conventions. With regard to article 18, Switzerland supported the compromise formulated in the Coordinator's draft. It was important to stress that paragraph 4 of that article, in particular, should guarantee that the exclusion of certain acts from the scope of the convention would not lead to impunity in cases where such acts were otherwise illegal. Switzerland favoured the continuation of negotiations leading to the earliest possible adoption by consensus of a text.

50. The international convention for the suppression of acts of nuclear terrorism would play a crucial role in the suppression of one of the potentially most lethal forms of terrorism, and Switzerland regretted the lack of progress on outstanding issues. Political differences should not take precedence over the prevention and suppression of nuclear terrorism, and Switzerland welcomed all efforts to resolve the matter rapidly.

51. His delegation noted the adoption by the Security Council of resolution 1566 (2004) and welcomed the

Council's efforts in that regard. However, when taking long-term legislative measures that affected the entire international community, all States must have an opportunity to participate in the drafting of such measures. All Member States should therefore be involved from the outset in the working group to be established pursuant to that resolution.

52. Furthermore, resolution 1566 (2004) contained formulations of a legislative nature that did not correspond to definitions used in the draft comprehensive convention on international terrorism or in existing counter-terrorism conventions. The General Assembly must rapidly reach a consensus on the draft comprehensive convention so as to avoid future overlaps between the work of the Assembly and the Security Council. The prerogatives of the Assembly as a legislative body would thus be reinforced, and an objective definition of terrorism would assist the Council in its drafting of counter-terrorism resolutions.

53. **Mr. Denisov** (Russian Federation) said that the escalation of international terrorism provided alarming confirmation that the international community was still mired in the process of working out measures offering an adequate response to terrorist threats. In that context, a collective effort was required to consolidate the legal bases for security measures and to heighten the effectiveness of international cooperation in the field of counter-terrorism. The United Nations, especially the Counter-Terrorism Committee, played a central coordinating role in that respect. The launching of the Counter-Terrorism Committee Executive Directorate would increase the practical capabilities of that Committee, but regional mechanisms likewise constituted a vital component of the global response to terrorism and for that reason Russia actively collaborated with three of them.

54. Despite all that the Sixth Committee had contributed towards the improvement of anti-terrorist regimes, the cruel nature and growing threat of terrorism called for new solutions based on a clear understanding of priorities dictated by the demands of the current phase of the struggle against terrorism. The two draft conventions under consideration would substantially strengthen the legal basis for cooperation, so the lack of real progress towards their adoption was a matter for concern. The seriousness of the situation had been highlighted in Security Council resolution 1566 (2004). The latter was an important signal which must be heeded.

55. Discussion of the draft convention for the suppression of acts of nuclear terrorism had demonstrated firstly that virtually all delegations agreed on the need for its prompt adoption, since the measures it contained would effectively stop terrorists gaining access to nuclear material, and secondly, that the majority of Member States supported the consolidated text presented by the Ad Hoc Committee, although some still had some reservations about article 4. His Government felt that that article, as it stood, showed a commitment to a consensual approach and rested on international legal norms which had already been embodied in two previous conventions. It should therefore be accepted, since the question of extending counter-terrorist treaties to the action of armed forces could be resolved in deliberations on the draft comprehensive convention on international terrorism. Work on the Indian draft should therefore be continued as a matter of priority. Moreover, at a time when terrorists were trying to acquire nuclear weapons and material, the adoption of the draft international convention for the suppression of acts of nuclear terrorism at the current session would substantially reinforce the international legal bases of global counter-terrorist measures; hence the transmission without further delay of the draft convention from the Ad Hoc Committee to the Sixth Committee would be a major step forward. It was a unique treaty which, for the first time, targeted the international community's efforts aimed at denying terrorists access to weapons of mass destruction. The opportunity to adopt such an important international legal document should not therefore be lost.

56. **Mr. Mukongo Ngay** (Democratic Republic of the Congo) emphasized his delegation's strong condemnation of all forms of terrorism, a scourge that had no link to any culture or religion.

57. In order to comply with Security Council resolution 1373 (2001) the Democratic Republic of the Congo had set itself short-term goals in three main areas: ratification and/or implementation of the international conventions; revision of domestic legislation; and cooperation in the fight against terrorism. It was proceeding with considerable success in the process of ratifying the relevant United Nations conventions and protocols, which needed only action in the legislature and final approval by the head of State. On the domestic front his Government had, inter alia, taken steps to establish the jurisdiction of its courts in

terrorism matters and, in July 2004, had enacted a law on money-laundering and terrorist financing. The law defined terrorism clearly and established severe penalties. Another recently enacted law defined and penalized terrorism, genocide, crimes against humanity and war crimes. Lastly, with regard to cooperation, it had submitted the reports required pursuant to resolution 1373 (2001) in a timely manner. In the light of such efforts and to further them, his Government now sought the assistance offered by the Counter-Terrorism Committee, including technical and financial assistance.

58. His delegation encouraged the members of the Sixth Committee to continue their work on the two draft conventions and to ensure that the convening of a high-level conference under the auspices of the United Nations to formulate a joint organized response of the international community to terrorism remained on the General Assembly's agenda. His delegation stressed that the comprehensive convention on international terrorism should make a clear distinction between terrorism and the struggle of peoples under foreign occupation. Furthermore, the acts of the armed forces of a State must be carried out in accordance with the Charter of the United Nations and international humanitarian law. There was no practical need for article 2 bis, as any conflict between a sectoral anti-terrorism convention and the comprehensive one was already resolved by existing provisions of international law. The convention for the suppression of acts of nuclear terrorism was an important complement to existing counter-terrorist conventions, and his delegation urged all delegations rapidly to overcome their differences and complete their work on the question.

59. **Ms. Ahmed** (Bangladesh) said that Bangladesh condemned all forms of terrorism. It had unreservedly supported the adoption by the General Assembly in 1997 and 1999, respectively, of the International Convention for the Suppression of Terrorist Bombings and the International Convention for the Suppression of the Financing of Terrorism. It was a party to the SAARC Regional Convention on Suppression of Terrorism, and to the Additional Protocol thereto. The Parliament of Bangladesh had passed comprehensive legislation to combat money-laundering and had amended the Extradition Act of 1974 to include terrorist crimes in the schedule of offences.

60. Bangladesh strongly supported the early completion of a comprehensive convention on international terrorism and the convening of an international conference to define the concept of terrorism. Terrorism must be distinguished from the legitimate aspirations and struggles of peoples for national liberation; the concept of the inalienable right of peoples to self-determination was embodied in the Charter of the United Nations.

61. Bangladesh condemned the religious profiling of terrorism and urged Member States to promote cross-cultural understanding. It believed that military response and instant retribution alone could not eliminate terrorism. The root causes of terrorism, including poverty, exploitation and inequality, must be addressed globally for the fight against terrorism to be effective.

62. Her Government hoped that the draft convention for the suppression of acts of nuclear terrorism would soon be adopted by consensus. As a State Party to the Treaty on the Non-Proliferation of Nuclear Weapons and the Comprehensive Nuclear-Test-Ban Treaty, Bangladesh was committed to general and complete disarmament and welcomed all existing nuclear-weapon-free zones. It had actively supported the adoption of General Assembly resolution 58/48, on measures to prevent terrorists from acquiring weapons of mass destruction, and believed in that connection that the most effective measure was the total elimination of such weapons.

The meeting rose at 1.05 p.m.